

Robin Carnahan
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

COPY

Administrative Rules Stamp

JUN 30 2005

SECRETARY OF STATE
ADMINISTRATIVE RULES

A "SEPARATE" rule transmittal sheet **MUST** be used for EACH individual rulemaking.

A. Rule Number 4 CSR 240-31.080

Diskette File Name Amendment 240-31.080

Name of person to call with questions about this rule:

Content David A. Meyer Phone 573/751-8706 FAX 573/751-9285

E-mail address david.meyer@psc.mo.gov

Data entry Carla Schnieders Phone 573-522-9038 FAX 573-526-6969

E-mail address carla.schnieders@psc.mo.gov

Interagency mailing address GOB, 200 Madison Street, 8th Floor, J.C. MO 65102

Statutory Authority: Sections 392.200, 392.248 & 392.470

Current RSMo date: 2000 & Supp. 2004

Date filed with the Joint Committee on Administrative

B. CHECKLIST guide for rule packets:

☒ This transmittal completed

☐ Forms, number of pages _____

☒ Cover letter

☐ Authority section with history of the rule

☐ Affidavit

☐ Public cost statement

☐ Small business impact statement

☐ Private cost statement

☐ Fiscal notes

☐ Hearing date

C. RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination

MUST include effective: _____

☒ Proposed Rulemaking (choose one) ☐ rule, ☒ amendment, or ☐ rescission

☐ Order of Rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination

MUST complete page 2 of this transmittal

☐ Withdrawal (choose one) ☐ rule, ☐ amendment, ☐ rescission or ☐ emergency

☐ Rule action notice ☐ In addition ☐ Rule under consideration

D. SPECIFIC INSTRUCTIONS: Any additional information you may wish to provide to our staff _____

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number _____

1a. Effective Date for the Order

Statutory 30 days

Specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?

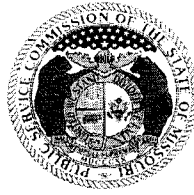
☐ YES ☐ NO

1c. If the answer is YES, please complete section F.

If the answer is NO, **STOP** here.

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.



Commissioners

JEFF DAVIS
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.mo.gov>

WESS A. HENDERSON
Executive Director

ROBERT SCHALLENBERG
Director, Utility Services

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

June 30, 2005

Hon. Robin Carnahan
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan,

Re: Rule 4 CSR 240-31.080
Applications for MoUSF Funds

CERTIFICATION OF ADMINISTRATIVE RULE

I hereby certify that the attached is an accurate and complete copy of the proposed amendment lawfully submitted by the Missouri Public Service Commission on this 30th day of June 2005.

The Missouri Public Service Commission certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to section 536.017, RSMo and that this proposed amendment does not constitute a taking of real property under relevant state and federal law.

Section 536.300, RSMo Supp. 2004 requires state agencies to "determine whether the proposed rules affect small businesses and, if so, the availability and practicability of less restrictive alternatives that could be implemented to achieve the same results of the proposed rule." A small business is defined to be "a for-profit enterprise consisting of fewer than fifty (50) full or part-time employees." A proposed rule "affects" a small business if it "imposes any requirement" that "will cause direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business."

Although compliance with some of the Commission's amended rules may entail expenditures by small businesses, the Commission's amendments simply require small businesses to comply with new Federal Communications Commission mandates, and the Commission is implementing these rules as directed by the Federal Communications Commission. Section 536.300.4 (Supp. 2004) exempts from the small business impact requirements rules that are

federally mandated, and any rule amendments that have an impact upon small businesses are federally mandated.

Statutory Authority: Section 392.200.2 RSMo Supp. 2004 and Sections 392.248 and 392.470.1 RSMo 2000.

If there are any questions, please contact:

David Meyer, Senior Counsel
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8701, FAX (573) 751-9285
david.meyer@psc.mo.gov

BY THE COMMISSION

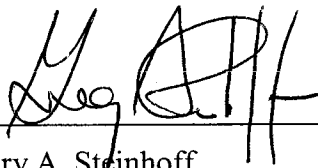


Colleen M. Dale
Secretary/Chief Regulatory Law Judge

AFFIDAVIT
(PUBLIC NO COST)

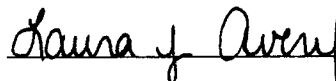
STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Gregory A. Steinhoff, Director of the Department of Economic Development, first being duly sworn on my oath, state that it is my opinion that the cost of the **Proposed Amendment of 4 CSR 240-31.080, Application for MoUSF Funds**, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Gregory A. Steinhoff
Director
Department of Economic Development

Subscribed and sworn to before me this 8 day of June, 2005.
I am commissioned as a notary public within the County of
Cole, State of Missouri, and my commission expires on
Aug 12, 2008.



NOTARY PUBLIC



Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 31—Missouri Universal Service Fund

PROPOSED AMENDMENT

4 CSR 240-31.080 Applications for MoUSF Funds. The commission is amending section (1), section (1) subsection (A)(1), section (1) subsection (B)(1), section (2) and section (3).

PURPOSE: This amendment is being proposed to correct certain statutory and rule references.

(1) Any telecommunications company seeking to receive funds from the Missouri Universal Service Fund (MoUSF) must file a written application for same with the Fund Administrator. All application[s] **forms [for funds]** shall **include a statement that the information contained therein is consistent with this chapter and that any intentional false statement or declaration shall be referred for prosecution pursuant to section 575.060, RSMo Supp 2004.** *[comply with the[requirements of 4 CSR 240-2.060(1)(A).(H) and 4 CSR 240-2.080.]* In addition, applications shall set forth the following information:

(A) Applications for funds to ensure the provision of reasonably comparable essential local telecommunications service throughout the state, including high cost areas, at just, reasonable and affordable rates (high cost assistance), shall include the following information:

1. That the applicant is a telecommunications company as that term is defined by section 386.020(51), RSMo **2000** *[Supp. 1997]*;
2. That applicant offers all essential local telecommunications service, throughout an entire high cost area using its own facilities, in whole or in part, and has carrier of last resort obligations in that high cost area;
3. The specific identity of the geographic area(s) which applicant believes to be high cost areas for which assistance is sought;
4. Documentation showing that the cost to applicant of providing essential local telecommunications service in high cost areas exceeds the just, reasonable and affordable rate for such service as determined by the commission;
5. The sources and amounts of support revenue; and
6. The rate reductions to maintain revenue neutrality; and

(B) Applications for funds to assist low-income customers and/or disabled customers in obtaining essential local telecommunications service shall include the following information:

1. That applicant is a telecommunications company as that term is defined by section 386.020(51), RSMo **2000** *[Supp. 1997]*; and
2. That applicant is providing essential local telecommunications service to low-income customers and/or disabled customers as defined by commission rule or procedures pursuant to a discounted rate established by the commission for such customers.

(2) Applications by the Fund Administrator for reimbursement of its reasonable, audited costs of administering the MoUSF shall be made in writing, **[and]shall be subscribed and verified under oath by one of the following methods: if an individual, by that individual; if a partnership, by an authorized member of the partnership; or if a corporation, by an authorized officer of the corporation.** *[in accordance with 4 CSR 240-2.060(1)(F) and]* Applications shall include the following information:

- (A) A detailed description of the Fund Administrator's cost in administering the MoUSF; and
- (B) A statement by an independent auditor that said costs—
1. Have been incurred by the Fund Administrator; and
 2. Are, in the auditor's opinion, reasonable and appropriate.
- (3) Applications for modification of support payments by a telecommunications company may be made at any time provided such telecommunications company can demonstrate that its cost of providing essential local telecommunications service has changed materially and that a modification in its support payment is appropriate and consistent with section 392.248, RSMo 2000[Supp. 1997].

AUTHORITY: section[s] 392.200.2, RSMo Supp. 2004 and sections 392.248[, RSMo Supp. 1997] and 392.470.1, RSMo 2000[1994]. Original rule filed Aug. 15, 1997, effective April 30, 1998. Amended: Filed June 30, 2005.*

**Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo (1996); and 392.470.1, RSMo 1987.*

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices on or before September 1, 2005, and should include a reference to Commission Case No. TX-2005-0460. If comments are submitted via a paper filing, an original and six (6) copies of the comments are required. Comments may also be submitted via a filing using the Commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. A public hearing regarding this proposed rule is scheduled for September 12, 2005, at 10:00 A.M. in room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.