

John R. Ashcroft

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-31.010

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

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Name of person to call with questions about this rule:

Content Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

Email address Morris.woodruff@psc.mo.gov

Data Entry Christine Koenigsfeld Phone 573-751-4256 FAX 573-526-6010

Email address Christine.Koenigsfeld@psc.mo.gov

Interagency mailing address Public Service Commission, 9th Floor Gov. Office Bldg, JC, Mo

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency Rulemaking ☐ Rule ☐ Amendment ☐ Rescission ☐ Termination

Effective Date for the Emergency _____

☐ Proposed Rulemaking ☐ Rule ☐ Amendment ☐ Rescission

☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Request for Non-Substantive Change

☐ Statement of Actual Cost

☒ Order of Rulemaking ☐ Withdrawal ☐ Adopt ☒ Amendment ☐ Rescission

Effective Date for the Order _____

☐ Statutory 30 days OR Specific date _____

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☒ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Sections (4), (5), and (11)

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Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON

SEP 05 2018

ADMINISTRATIVE RULES

STATE CAPITOL
201 W. CAPITOL AVENUE, ROOM 216
JEFFERSON CITY, MISSOURI 65101



(573) 751-3222
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Michael L. Parson

GOVERNOR
STATE OF MISSOURI

August 30, 2018

Mr. Daniel Hall
Public Service Commission
200 Madison Street
PO Box 360
Jefferson City, MO 65102

RE: *Proposed Rulemaking*

Dear Daniel:

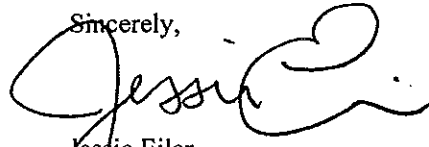
This office has received your proposed amendments, rules and rescissions for the regulations listed below.

- 4 CSR 240-28.010 – Definitions (proposed amendment)
- 4 CSR 240-31.010 – Definitions (proposed amendment)
- 4 CSR 240-28.011 – Certificate of Service Authority and/or Registration (proposed rule)
- 4 CSR 240-28.012 – Annual Reports, Statements of Revenue, and Assessments (proposed rule)
- 4 CSR 240-28.013 – Tariff Filings and Interconnection Agreements (proposed rule)
- 4 CSR 240-28.014 – Network Configuration (proposed rule)
- 4 CSR 240-28.015 – 211 Service (proposed rule)
- 4 CSR 240-28.016 – Telephone Numbering (proposed rule)
- 4 CSR 240-31.011 – Missouri USF Administration (proposed rule)
- 4 CSR 240-31.012 – Missouri USF Assessment (proposed rule)
- 4 CSR 240-31.013 – Missouri USF High Cost Support (proposed rule)
- 4 CSR 240-31.014 – Lifeline and Disabled Programs (proposed rule)
- 4 CSR 240-31.015 – ETC Requirements (proposed rule)
- 4 CSR 240-31.016 – ETC Application Requirements (proposed rule)
- 4 CSR 240-28.020 – General Provisions (proposed rescission)
- 4 CSR 240-28.030 – Certification or Registration Requirements (proposed rescission)
- 4 CSR 240-28.040 – Reporting Requirements (proposed rescission)
- 4 CSR 240-28.050 – Assessment Requirements (proposed rescission)
- 4 CSR 240-28.060 – Service Requirements (proposed rescission)
- 4 CSR 240-28.070 – Tariffs (proposed rescission)
- 4 CSR 240-28.080 – Interconnection Agreements (proposed rescission)
- 4 CSR 240-28.090 – 211 Service (proposed rescission)
- 4 CSR 240-31.020 – Organization, Powers, and Meetings of the Board (proposed rescission)
- 4 CSR 240-31.030 – The MoUSFA (proposed rescission)
- 4 CSR 240-31.040 – Eligibility for Funding – High Cost Areas (proposed rescission)
- 4 CSR 240-31.060 – The MoUSF Assessment (proposed rescission)
- 4 CSR 240-31.090 – Disbursement of MoUSF Funds (proposed rescission)
- 4 CSR 240-31.100 – Review Procedures for Support Payments (proposed rescissions)

- 4 CSR 240-31.110 – Review of Board and MoUSFA Activities (proposed rescission)
- 4 CSR 240-31.120 – Lifeline Programs and Disabled Programs (proposed rescissions)
- 4 CSR 240-31.130 – Eligible Telecommunications Carrier Requirements (proposed rescission)
- 4 CSR 240-37.010 – General Provisions (proposed rescission)
- 4 CSR 240-37.020 – Definitions (proposed rescission)
- 4 CSR 240-37.030 – Thousands-Block Number Pooling (proposed rescission)
- 4 CSR 240-37.040 – Request for Review of the Decisions of the North American Numbering Plan Administrator or the Thousands-Block Pooling Administrator (proposed rescission)
- 4 CSR 240-37.050 – Reclamation (proposed rescission)
- 4 CSR 240-37.060 – Reporting Requirements (proposed rescission)

Executive Order 17-03 requires this office's approval before state agencies release proposed regulations for notice and comment, amend existing regulations, rescind regulations, or adopt new regulations. After our review of this rulemaking, we approve the submission of these amendments, rules and rescissions to the Joint Committee on Administrative Rules and the Secretary of State.

Sincerely,



Jessie Eiler
Deputy Counsel



Commissioners
DANIEL Y. HALL
Chairman
WILLIAM P. KENNEY
SCOTT T. RUPP
MAIDA J. COLEMAN
RYAN A. SILVEY

Missouri Public Service Commission

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John Ashcroft
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-31.010 Definitions

Dear Secretary Ashcroft,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the order of rulemaking lawfully submitted by the Missouri Public Service Commission.

Statutory Authority: sections 392.200.2, 392.248, and 392.470.1, RSMo 2016.

If there are any questions regarding the content of this order of rulemaking, please contact:

Morris L. Woodruff, Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-2849
Morris.woodruff@psc.mo.gov

Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

**Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 31 – Universal Service**

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SECRETARY OF STATE
ADMINISTRATIVE RULES

ORDER OF RULEMAKING

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By the authority vested in the Public Service Commission under sections 392.200.2, 392.248, and 392.470.1 RSMo 2016, the commission amends a rule as follows:

4 CSR 240-31.010 Definitions is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 15, 2018 (43 MoReg 994-996). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the Code of State Regulations.

SUMMARY OF COMMENTS: The public comment period ended July 2, 2018, and the commission held a public hearing on the proposed rule on July 9, 2018. The commission received timely written comments from AT&T, Missouri Cable Telecommunications Association (MCTA), CenturyLink, Windstream Missouri, Verizon, the Small Telephone Company Group and Missouri Independent Telephone Company Group (STCG), the Missouri Telecommunications Industry Association (MTIA), and the staff of the commission. Whitney Payne, representing the commission's staff; Richard Telthorst, on behalf of MTIA; Brian McCartney, representing STCG; and Craig Johnson representing Chariton Valley Communications, appeared at the hearing and offered comments.

COMMENT #1: The proposed revision of the commission's chapter 31 rules regarding Universal Service would expand Missouri's universal service fund to support provision of broadband internet access services in underserved areas. MCTA, AT&T, Verizon, and CenturyLink oppose that proposed expansion as exceeding the commission's statutory authority. Further, they warn that state regulation in this area would be preempted by federal regulation by the Federal Communications Commission. On the other side, the STCG fully supports the proposed expansion of the Missouri universal service fund to support broadband services.

RESPONSE: While the expansion of broadband internet access service to areas that are currently underserved is an important policy goal, the commission determines its statutory authority to expand the Missouri universal service fund to support that service is unclear and as a consequence, the program should not be

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expanded. That determination will impact several specific provision of the rule that will be addressed in subsequent comments.

COMMENT #2: STCG recommends that section 31.010(4), which defines ETC, should be revised to clarify that ETC status is also necessary to participate in the Missouri MoUSF Lifeline program.

RESPONSE AND EXPLANATION OF CHANGE: The commission will modify the definition as proposed by STCG.

COMMENT #3: Section 31.010(5) defines “essential local telecommunications service.” As proposed, the definition would include “retail broadband service.” MCTA, CenturyLink, Verizon, and AT&T urge the commission to remove that phrase from the definition. STCG would keep broadband service in the definition, but would change the phrase “retail broadband service” to “broadband internet access service.” In addition, AT&T would alter the definition to clarify that one-way (non-interconnected VoIP) would not be eligible for Lifeline or high-cost support.

RESPONSE AND EXPLANATION OF CHANGE: As previously indicated, the commission will not expand the universal service fund to support broadband service. The definition of “essential local telecommunications service will be altered to remove reference to broadband service and to incorporate the additional change proposed by AT&T.

COMMENT #4: Proposed section 31.010(11) defines “retail broadband service.” As part of their opposition to expanding the universal service fund to support broadband, MCTA, CenturyLink, Verizon, and AT&T urge the commission to remove this definition.

RESPONSE AND EXPLANATION OF CHANGE: Having decided not to expand the universal service fund to support broadband service, the commission will eliminate this unnecessary definition and will renumber the subsequent section.

4 CSR 240-31.010 Definitions. This rule defines terms used in the rules comprising Chapter 31.

(4) ETC—Refers to eligible telecommunications carrier. ETC designation allows a company to receive federal universal service funding as contemplated under 47 U.S.C. 214(e) and 47 CFR Part 54 Subpart C. ETC designation is also necessary for a company to participate in the MoUSF Lifeline program.

(5) Essential local telecommunications service — Local circuit-switched voice telephone service which provides voice grade access to and from the public switched network including access to 911-related emergency services to the extent implemented by a local government.

(11) USF—Refers to Universal Service Fund.