

**Robin Carnahan**

**Secretary of State  
Administrative Rules Division**

**RULE TRANSMITTAL**

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SECRETARY OF STATE  
ADMINISTRATIVE RULES

FILED  
August 8, 2013  
Data Center  
Missouri Public  
Service Commission

**COPY**

Rule Number 4 CSR 240-31.010

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

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 Chris Koenigsfeld Phone 573-751-4256 FAX 573-526-6010

Email address christine.koenigsfeld@psc.mo.gov

Interagency mailing address Public Service Commission, 9<sup>th</sup> Fl, Gov.Ofc Bldg, JC, MO

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☒ Proposed Rulemaking

☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Order of Rulemaking

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:

Small Business Regulatory  
Fairness Board (DED) Stamp

SMALL BUSINESS  
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

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ADMINISTRATIVE RULES



**Commissioners**

**ROBERT S. KENNEY**  
Chairman

**TERRY M. JARRETT**

**STEPHEN M. STOLL**

**WILLIAM P. KENNEY**

***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>

**JOSHUA HARDEN**  
General Counsel

**MORRIS WOODRUFF**  
Secretary

**WESS A. HENDERSON**  
Director of Administration  
and Regulatory Policy

**CHERLYN D. VOSS**  
Director of Regulatory Review

**KEVIN A. THOMPSON**  
Chief Staff Counsel

August 7, 2013

Jason Kander  
Secretary of State  
Administrative Rules Division  
600 West Main Street  
Jefferson City, Missouri 65101

Re: 4 CSR 240-31.010 Definitions

Dear Secretary Kander,

**CERTIFICATION OF ADMINISTRATIVE RULE**

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

The Public Service Commission has determined and hereby certifies that this proposed rulemaking will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 536.017, RSMo 2000, that the proposed rulemaking does not constitute a taking of real property under relevant state and federal law, and that the proposed rulemaking conforms to the requirements of 1.310, RSMo Supp. 2012, regarding user fees.

The Public Service Commission has determined and hereby also certifies that this proposed rulemaking complies with the small business requirements of 1.310, RSMo Supp. 2012, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo Supp 2012, by exempting any small business consisting of fewer than fifty full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

Woodruff  
August 7, 2013  
Certification of Administrative Rule

Statutory Authority: section 392.200.2 RSMo Supp.2011 and sections 392.248 and 392.470.1  
RSMo 2000

If there are any questions regarding the content of this proposed 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](mailto:morris.woodruff@psc.mo.gov)

A handwritten signature in black ink, reading "Morris L. Woodruff". The signature is written in a cursive style with a large, sweeping "M" and a long, horizontal stroke at the end.

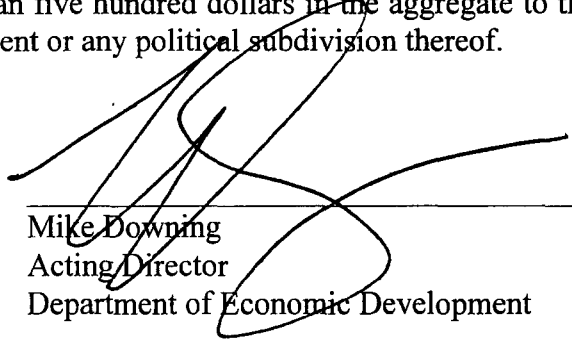
Morris L. Woodruff  
Chief Regulatory Law Judge

Enclosures


**AFFIDAVIT  
PUBLIC COST**

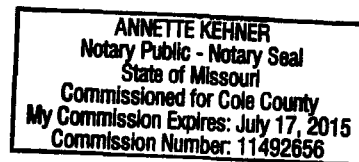
**STATE OF MISSOURI )**  
**)**  
**COUNTY OF COLE )**

I, Mike Downing, Acting Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed amendment, 4 CSR 240-31.010, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

  
\_\_\_\_\_  
Mike Downing  
Acting Director  
Department of Economic Development

Subscribed and sworn to before me this 15<sup>th</sup> day of July, 2013, I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on 17 July 2015.

  
\_\_\_\_\_  
Notary Public



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**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

**Division 240—Public Service Commission**

**Chapter 31—[Missouri] Universal Service [Fund]**

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ADMINISTRATIVE RULES

**PROPOSED AMENDMENT**

**4 CSR 240-31.010 Definitions.** The Commission is amending the chapter header and sections (1), (2), (6), (8), (9), (13), and (14), adding new sections (2), (4), (5), (7), (8), (9), (12), (13), (15), (16), and (18), and deleting sections (3), (4), (5), (7), (10), (11), (12), (15), and (16).

*PURPOSE: This rule is amended to ensure that necessary terms used in Chapter 31 are defined consistently with current law and applicability.*

(1) *[Applicable] Assessable carrier—All registered interconnected VoIP providers and certificated telecommunications companies [certificated to provide telecommunications services in Missouri] except: pay telephone providers, shared tenant services (STS) providers, and those companies with annual net jurisdictional revenue below a de minimis level of twenty-four thousand dollars (\$24,000).*

(2) **Board—refers to the Missouri Universal Service Board established by section 392.248.1, RSMo 2000 and comprised of members of the commission and the public counsel, which shall supervise the management of the MoUSF.**

(2/3) **Commission—The Missouri Public Service Commission.**

(3) *Cost—Cost of a telecommunications company in providing essential local telecommunications service as determined by the commission.]*

(4) *[Disabled customer—Any customer who requests or receives residential essential local telecommunications service and who meets the definition of “disabled” set out in section 660.100.2, RSMo 2000 or a customer who has a dependent that meets the definition of “disabled” set out in section 660.100.2 and is residing in the customer’s household.]* **Disabled Program – the program that offers discounted voice telephony service to Missourians with certain disabilities as defined by 4 CSR 240-31.120(1)(C).**

(5) *[Economically disadvantaged customer—see low-income customer.]* **Eligible telecommunications carrier (ETC) — is a carrier designated as such by the Missouri Public Service Commission pursuant to 47 U.S.C 214(e) and 47 CFR Part 54 Subpart C. ETC designation allows a carrier to receive FUSF support from the high-cost and/or Lifeline programs and to receive MoUSF support from the Lifeline or Disabled programs.**

(6) **Essential local telecommunications services – [Two (2)-way switched voice residential service within a local calling scope as determined by the commission, comprised of the following services and their recurring charges:] this phrase is synonymous with “voice telephony service” as defined by 4 CSR 240-31.010(18).**

*[(A) Single line residential service, including Touch-Tone dialing, and any applicable mileage or zone charges;*

*(B) Access to local emergency services including, but not limited to, 911 service established by local authorities;*

*(C) Access to basic local operator services;*

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- (D) Access to basic local directory assistance;
- (E) Standard intercept service;
- (F) Equal access to interexchange carriers consistent with rules and regulations

of the

Federal Communications Commission (FCC);

- (G) One (1) standard white pages directory listing; and
- (H) Toll blocking or toll control for qualifying low-income customers.]

(7) *[Fund Administrator—The agency, individual, firm, partnership, or corporation selected by the Missouri Universal Service Board to act as the independent neutral administrator of the Missouri Universal Service Fund.]* **Federal Communications Commission (FCC) – the federal agency charged with oversight of the Federal Universal Service Fund and which places certain responsibilities on the commission, through the promulgation of federal rules pursuant to federal statutes, in filling that oversight obligation.**

(8) **Federal Universal Service Fund (FUSF) – The federal program that provides funds to companies that offer free or reduced-price voice telephony service to low-income households.**

(9) **Federal Universal Service Fund Administrator (FUSFA) - an independent, not-for-profit corporation created to administer the federal universal service programs under the oversight of the FCC.**

(10) **Household— defined by 47 CFR Part 54.400(h) as [A]any individual or group of individuals who are living together at the same address as one (1) economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen (18) years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen (18) living with their parents or guardians are considered to be part of the same household as their parents or guardians.**

(11) **Income— defined by 47 CFR Part 54.400(f) as [A]all income actually received by all members of [the]a household. This includes salary before deductions for taxes, public assistance benefits, [S]social [S]security payments, pensions, unemployment compensation, veteran’s benefits, inheritances, alimony, child support payments, worker’s compensation benefits, gifts, lottery winnings[,] and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing[,] and the like.**

(12) **Local calling scope—The geographic area determined by a local exchange telecommunications company’s tariffs filed with and approved by the commission, within which telecommunications service is furnished under a non-optional, flat, monthly rate. A local calling scope may include one (1) or more exchange service areas.**

(13) **Low-income customer—Any customer who requests or receives residential essential local telecommunications service and whose household income, as defined in section (9) above, is at or below one hundred thirty-five percent (135%) of the Federal Poverty Guidelines or who participates or has a dependent residing in the customer’s household who participates in a program pursuant to 42 U.S.C. sections 1396–1396v, food stamps (7 U.S.C. section 51), Supplementary Security Income (SSI) (42 U.S.C. section 7), federal public housing assistance or Section 8 (42 U.S.C. section 8), National School Lunch Program’s free lunch program (42 U.S.C. section 13), Temporary Assistance for Needy Families (42 U.S.C. section 7(IV)), or Low Income Home Energy Assistance Program (LIHEAP) (42 U.S.C. section 94).**

(12) *Missouri Universal Service Board (board)*—The board established by section 392.248.1., RSMo 2000, and comprised of members of the commission and the Public Counsel, which shall supervise the management of the MoUSF.]

**(12) Interconnected Voice over Internet Protocol (VoIP)** – is a service that enables real-time, two-way voice communications, requires a broadband connection from the user's location, requires Internet protocol-compatible customer premises equipment, and permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network;

**(13) Lifeline Service** -- refers to a retail voice telephony service offering with free or reduced monthly charges to qualifying low-income consumers. Lifeline is a government funded program provided as described in 47 CFR Part 54 Subpart E and these rules.

~~[(13)]~~**(14) MoUSF**— refers to the Missouri Universal Service Fund. ~~[(MoUSF or Fund)]~~—The universal service fund]The various purposes for the MoUSF are established by section 392.248, RSMo 2000[.]. ~~[to be]~~ The MoUSF is currently used[—

(A) To ensure the provision of reasonably comparable essential local telecommunications service, as defined in this rule, throughout the state including high cost areas, at just, reasonable, and affordable rates;

(B) ~~T]~~to assist low-income customers and disabled customers in obtaining affordable essential telecommunications services[;

(C) ~~T]~~and to pay the reasonable, audited costs of administering the MoUSF.]; and

(D) To permit eligible incumbent local exchange companies to recover the reasonably projected changes in revenues from reductions in Federal Universal Service Fund (USF) payments caused by changes to the Federal USF program announced by the FCC no later than December 31, 1997, as determined by the commission.]

**(15) Missouri Universal Service Fund Administrator (MoUSFA)**— The agency, individual, firm, partnership, or corporation selected by the board to act as the independent neutral administrator of the MoUSF.

**(16) MoUSF web site** —The MoUSF web site is [www.missouriusf.com](http://www.missouriusf.com) or [www.mousf.com](http://www.mousf.com). The web site contains various forms and information as directed by the board regarding the administration of the MoUSF.

~~[(14)]~~**(17) Net jurisdictional revenue**—Net jurisdictional revenue shall include all **retail** revenues ~~[received by an applicable carrier from retail customers]~~ resulting from the provision of intrastate regulated telecommunications **and VoIP** services, but shall not include revenue from payphone operations, taxes, and uncollectibles. **Wholesale** ~~[R]~~revenues received from another provider of ~~[telecommunications services]~~**voice telephony service** for the provision of switched and special exchange access services and for the provision of unbundled network elements and resold services shall not be considered retail revenues.

~~[(15)]~~ **Toll blocking**—Toll blocking is a service provided by carriers that lets customers elect not to allow the completion of outgoing toll calls from their telecommunications channel.

~~[(16)]~~ **Toll control**—Toll control is a service provided by carriers that allows customers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.]

**(18) Voice telephony service** — refers to voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying Lifeline consumers. Toll limitation service does not need to be offered for any Lifeline service that does not distinguish between toll and non-toll calls in the pricing of the service.

**(19) Wireless service** — refers to commercial mobile radio service as identified in 47 CFR Parts 20 and 24.

*AUTHORITY: section 392.200.2., RSMo Supp. 2011, and sections 392.248 and 392.470.1., RSMo 2000.\* Original rule filed Aug. 15, 1997, effective April 30, 1998. Amended: Filed Oct. 30, 2002, effective July 30, 2003. Emergency amendment filed May 31, 2005, effective June 10, 2005, expired Feb. 15, 2006. Amended: Filed June 30, 2005, effective Feb. 28, 2006. Emergency amendment filed July 22, 2008, effective Aug. 1, 2008, expired Jan. 29, 2009. Amended: Filed July 22, 2008, effective Feb. 28, 2009. Emergency amendment filed May 18, 2012, effective June 1, 2012, expired Feb. 28, 2013. Amended: Filed May 30, 2012, effective Dec. 30, 2012. **Amended: Filed***

*\*Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003, 2005, 2008; 392.248, RSMo 1996; and 392.470.1, RSMo 1987.*

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

*PRIVATE COST: This proposed amendment 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, Morris L. Woodruff, Secretary of the Commission, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices on or before October 16, 2013, and should include a reference to Commission Case No. TX-2012-0324. Comments may also be submitted via a filing using the Commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed rule is scheduled for October 21, 2013 at 10:00 a.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Room 305 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 (voice) or Relay Missouri at 711.



# **Small Business Regulator Fairness Board**

## **Small Business Impact Statement**

**Date:** December 12, 2012

**Rule Number:** 4 CSR 240-31.010

**Name of Agency Preparing Statement:** Missouri Public Service Commission

**Name of Person Preparing Statement:** Natelle Dietrich

**Phone Number:** 573-751-7427

**Email:** natelle.dietrich@psc.mo.gov

**Name of Person Approving Statement:** Natelle Dietrich

**Please describe the methods your agency considered or used to reduce the impact on small businesses** *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

Since the proposed rule defines terms used throughout Ch 31, there is no impact imposed on small businesses from promulgation of the rule.

**Please explain how your agency has involved small businesses in the development of the proposed rule.**

The Commission held workshops and solicited informal comments from affected entities, including small businesses.

**Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.**

None

**Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.**

Telecommunications companies and wireless providers that seek and receive designation as eligible telecommunications carriers (ETC).

**Please list direct and indirect costs (in dollars amounts) associated with compliance.**

N/A

**Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.**

Telecommunications companies and wireless providers that seek and/or receive ETC designation.

**Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?**

Yes\_\_\_ No\_X\_\_

**If yes, please explain the reason for imposing a more stringent standard.**

*For further guidance in the completion of this statement, please see §536.300, RSMo.*