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Secretary of State
Administrative Rules Division

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August 8, 2013
Data Center
Missouri Public
Service Commission

AUG 07 2013

SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-31.120

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, 9th 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

AUG 07 2013

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
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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 240-31.120 Lifeline Program and Disabled Program

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.

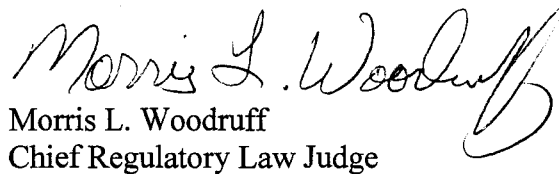
The Public Service Commission has determined and hereby also certifies that this proposed rulemaking complies with the small business requirements of 1.310, RSMo Supp. 2012, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it 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: sections 392.200.2 and 392.248, RSMo Supp. 1997 and 392.470.1, RSMo 1994

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


Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

**AFFIDAVIT
PUBLIC COST**

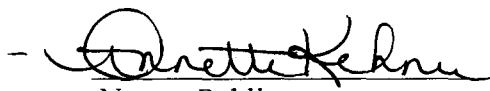
STATE OF MISSOURI)
)
COUNTY OF COLE)

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 rule, 4 CSR 240-31.120, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

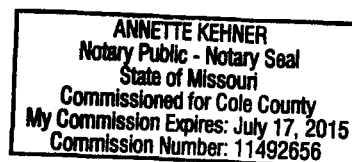


Mike Downing
Acting Director
Department of Economic Development

Subscribed and sworn to before me this 15 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



COPY

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

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PROPOSED RULE

SECRETARY OF STATE
ADMINISTRATIVE RULES

4 CSR 240-31.120 Lifeline Program and Disabled Program

PURPOSE: This proposed rule identifies requirements for participating in the Lifeline and/or Disabled programs. Any ETC participating in the Lifeline program must comply with these rules, including an ETC solely receiving federal Lifeline support.

(1) Lifeline and Disabled Programs Described.

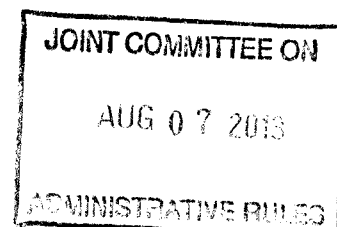
(A) The Lifeline program eligibility criteria include participation in:

1. MO HealthNet (formerly "Medicaid") or any program pursuant to 42 U.S.C. §§ 1396-1396v;
2. Supplemental Nutrition Assistance ("Food Stamps") or any program pursuant to 7 U.S.C. § 51;
3. Supplemental Security Income, or any program pursuant to 42 U.S.C. § 7;
4. Low-Income Home Energy Assistance ("LIHEAP") or any program pursuant to U.S.C. § 94;
5. Federal Public Housing Assistance ("Section 8") or any program pursuant to 42 U.S.C. § 8;
6. National School Free Lunch Program pursuant to 42 U.S.C. § 13;
7. Temporary Assistance for Needy Families pursuant to 42 U.S.C. section 7(IV); or
8. A consumer's household income is at or below 135% of the federal poverty level.
9. Any other eligibility criteria as determined by the FCC to be applicable in all states or as identified in FCC rule 47 CFR 54.409.

(B) The Lifeline program is funded by the FUSF and the MoUSF. An ETC participating in the Lifeline program shall comply with this rule even if it solely receives only federal support.

1. The FUSF Lifeline funding is specified in 47 CFR 54.403. This funding is available to all designated ETCs.

2. The MoUSF Lifeline funding is \$3.50 per month per Lifeline subscriber for ETCs certificated as a telecommunications company or registered as an VoIP provider.



3. MoUSF Lifeline funding when combined with FUSF Lifeline funding shall not exceed the sum of an ETC's local voice telephony service monthly rate and subscriber line charge.

(C) The Disabled program is a residential retail service that offers a qualifying disabled customer reduced charges for voice telephony service. The Disabled program is solely administered by the board through these rules and is solely funded by the MoUSF.

1. The Disabled program eligibility criteria include participation in:

- A. Veteran Administration Disability Benefits;
- B. State Blind Pension;
- C. State Aid to Blind Persons;
- D. State Supplemental Disability Assistance;
- E. Federal Social Security Disability; or
- F. Federal Supplemental Security Income.

2. The MoUSF provides \$3.50 per month per disabled subscriber; however, MoUSF support is limited to telecommunications companies and interconnected VoIP providers. MoUSF support is not available to wireless carriers.

(2) Carrier Participation Requirements in the Lifeline and Disabled Programs.

(A) A carrier must be designated as an ETC by the commission in order to participate in the Lifeline or Disabled programs and receive FUSF and/or MoUSF support.

(B) An ETC shall demonstrate compliance with all of the following requirements:

1. All ETC substantive and filing requirements identified in 4 CSR 240-31.130;

2. Remittance payments to the FUSF and MoUSF, as applicable;

3. Reporting requirements to FUSFA and the MoUSFA;

4. All requirements associated with the Lifeline program identified in 47 CFR Part 54 Subpart E and this chapter;

5. All requirements associated with the Disabled program identified in this chapter; and

6. Any ETC must be current in all filing requirements and other MoPSC required assessments prior to receipt of support payments from the MoUSF.

(C) An ETC shall annually recertify a subscriber's continued eligibility for participation in the Lifeline program. A subscriber shall submit proof of eligibility at least once every two years unless an ETC has an automated means of verifying subscriber eligibility or alternatively a carrier's annual recertification process is administered by the FUSFA.

(D) An ETC shall annually recertify a subscriber's participation in the Disabled program using either of the following procedures:

A. Apply the same procedure as identified in Subsection (C) to all Disabled program participants; or

B. Limit annual recertification efforts to any household participating in the disabled program whereby the qualifying disabled customer is not listed as the voice telephony subscriber. In such situations the ETC may limit its inquiry to the voice telephony subscriber as to whether the qualifying disabled customer remains within the household.

(E) An ETC shall comply with all audit requests by the FCC, the FUSFA, MoUSFA and the commission staff, concerning compliance with any and all requirements of the Lifeline and Disabled programs.

(F) If an ETC provides wholesale service to a company without ETC designation whereby the reseller offers Lifeline service or Disabled service to qualifying consumers, such wholesale arrangements are subject to the ETC receiving support directly from the FUSF and/or MoUSF for qualifying low-income or disabled consumers served by the reseller. The reseller shall not directly receive USF support.

(3) Consumer Eligibility for the Lifeline and Disabled programs.

(A) All consumers shall complete the application form approved by the board and submit adequate proof of eligibility. A board-approved application shall be required even if a carrier only seeks federal Lifeline support.

(B) Lifeline or Disabled service shall be limited to one kind of support per household. A Lifeline subscriber may receive both state and federal Lifeline support, but a household shall not receive both Lifeline and Disabled support, nor shall it receive Lifeline or Disabled support from multiple providers.

(C) A subscriber's participation in the Lifeline or Disabled programs shall be denied or discontinued if it is discovered the subscriber has submitted incorrect, false or fraudulent information to the carrier.

(4) De-enrollment Procedures

(A) De-enrollment generally. If an ETC has a reasonable basis to believe a household no longer meets the eligibility criteria for participation in the Lifeline or Disabled program then the ETC shall provide written notification to the subscriber of impending termination. Notification shall be sent in writing separate from the subscriber's monthly bill, if one is provided, and shall be written in clear, easily understood language. A subscriber shall be allowed 30-days following the date of the impending termination notification to submit acceptable proof of continued eligibility consistent with applicable annual re-certification requirements. If a subscriber fails to

demonstrate continued eligibility, the ETC shall de-enroll that subscriber within 5 business days of the expiration of the 30-day response period..

(B) De-enrollment for duplicative support. If an ETC is notified by the FUSFA that a subscriber is receiving Lifeline service from another ETC or that more than one member of the subscriber's household is receiving Lifeline service, then the ETC shall de-enroll the subscriber from participation in the company's Lifeline program within five business days.

(C) De-enrollment for non-usage. If an ETC does not assess or collect a monthly fee and the Lifeline subscriber has failed to comply for 60 consecutive days with usage requirements as defined in 47 CFR 54.407(c)(2) then the ETC shall provide written notice of impending de-enrollment to the subscriber. The notice shall inform the subscriber in clear, easily understood language that if the subscriber fails to use the Lifeline service within the next 30 days then the subscriber will be de-enrolled from the Lifeline program. If the subscriber uses the Lifeline service within 30 days of providing such notice then the company shall not terminate the subscriber's Lifeline service.

(D) De-enrollment for failure to re-certify. If a Lifeline or Disabled subscriber fails to respond to the ETC's attempts to obtain applicable re-certification, or fails to provide the annual one-per-household re-certification as required by 47, CFR 54.410(f), then the ETC shall de-enroll the subscriber within five business days after the expiration of the 30-day response period. This requirement shall also apply to a subscriber who relies on a temporary address and fails to respond to the ETC's address re-certification attempts pursuant to 47 CFR 54.410(g), if implemented.

(E) An ETC shall not be eligible for Lifeline or Disabled reimbursement for any de-enrolled subscriber following the date of that subscriber's de-enrollment.

(5) Requirements for a Company offering Lifeline or Disabled Service on a resale basis without ETC status.

(A) Any company offering Lifeline and/or Disabled service solely on a resale basis and without ETC status shall comply with all requirements identified in this chapter and 47 CFR Part 54 Subpart E.

(B) The company shall provide the following information to the manager of the commission's Telecommunications Unit:

A. Certification via affidavit by an officer of the company that the company will comply with all requirements associated with the Lifeline or Disabled programs within 4 CSR 240-31 and 47 CFR Part 54 Subpart E as if the company has ETC designation.

B. Contact information including address, email and direct phone number for the primary individual employed by the company for ensuring compliance with 4 CSR 240-31 and 47 CFR Part 54 Subpart E.

C. A copy of the consumer application enrollment form the company intends to use to sign-up customers to the Lifeline and/or Disabled programs.

D. Full and complete responses to information identified in 4 CSR 240-31.130(1)(B)1, 2, 4, 7, 8, 11 and 12; (C) and (D).

(C) Companies intending to offer Lifeline and/or Disabled service solely on a resale basis and without ETC status shall provide the information in subsection (B) at least thirty (30) in advance of offering such services. Any company already offering such services on the effective date of this rule must provide such information within thirty (30) days of the effective date of this rule.

(D) The company shall annually submit, no later than July 1 of each year, all information required in 4 CSR 240-31.130(3)(A) in the commission's Electronic Filing and Information System.

AUTHORITY: sections 392.200.2 and 392.248, RSMo Supp. 1997 and 392.470.1, RSMo 1994. Original rule filed _____*Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 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 240-31.120

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).*

4 CSR 240-31.120(3) – The Commission considered compromise positions and informal comments, but determined it was more appropriate to address concerns in the formal rulemaking process.

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 ☐

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

4 CSR 240-31.120(3) requires ETCs to use a Universal Service Board (USB) established customer application for Lifeline services, which complies with all state and federal rules and regulations. Over a period of about 45 days, the Commission Staff spent around 200 hours reviewing company-specific proposed modifications to the USB-approved form to ensure compliance with state and federal regulations. There are approximately 65 companies designated as ETCs in Missouri.

Federal regulations state that states may have more stringent requirements as long as the state requirements do not conflict with the federal requirements. The FCC indicated the Missouri application and process were satisfactory.

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