

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

EMERGENCY AMENDMENT

4 CSR 240-31.010 Definitions. The commission is amending sections (4), (9) (10) and (11).

PURPOSE: This amendment is being proposed to incorporate additional eligibility requirements for low-income customers consistent with federal guidelines with an emergency rulemaking. A proposed amendment covering this same material will be filed within the next few weeks.

*EMERGENCY STATEMENT: The General Assembly created and the Missouri Public Service Commission approved the establishment of a Missouri Universal Service Fund to help low income and disabled Missourians receive discounts for basic local telephone service. This emergency amendment is necessary to expand the eligibility criteria for low-income support and to maximize Federal Universal Service support for low-income customers. The Missouri Universal Service Fund is now commencing operations and expects to begin offering customer support on June 1, 2005. The Federal Communications Commission, in expanding eligibility criteria, required state commissions to be consistent with federal rules by June 22, 2005. The amendment enhances the Fund's ability to assist low-income customers and disabled customers in obtaining affordable essential telecommunications services as directed by section 392.248.2(2) RSMo 2000. Certain telecommunications companies have expressed concerns that their federal Universal Service Fund support may be jeopardized if the Missouri Public Service Commission does not implement these rules by June 22, 2005. The FCC rules anticipate that some states will have their own rules. These states are known as non-default states and have the effect of preempting some of the federal rules relating to universal service funds. This Commission has indicated that it desires to maintain its own rules rather than defaulting to the FCC guidelines. If the Missouri Public Service Commission does not promulgate these rules, Missouri runs the risk of defaulting to the federal rules; thus, potentially subjecting carriers to costly and burdensome requirements (such as income-based criteria) this Commission chose not to incorporate. The Missouri Public Service Commission has used procedures best calculated to assure fairness to all interested persons and parties under the circumstances because it has discussed the emergency amendment with representatives of the telecommunications industry in Missouri. This emergency amendment follows procedures which comply with the protections extended by the **Missouri and United States Constitutions**. The scope of this emergency amendment is limited to the circumstances creating an emergency and requiring emergency action. A proposed amendment covering the same material will be published in a subsequent issue of the **Missouri Register**. This emergency amendment was filed May 31, 2005, effective June 10, 2005, and expires February 15, 2006.*

(1) Applicable Carrier—All 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) 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 dependant that meets the definition of disabled set out in section 660.100.2 and is residing in the customer’s household.**
- (5) Economically disadvantaged customer—see low-income customer.
- (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:
- (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;
 - (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.
- (8) 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.
- (9) Low-income customer—Any customer who requests or receives residential essential local telecommunications service and **who participates** [*who has been certified by the Department of Social Services as economically disadvantaged by participation*] in Medicaid, food stamps, Supplementary Security Income (SSI), federal public housing assistance or Section 8, **National School Lunch Program’s free lunch program, Temporary Assistance for Needy Families** or Low Income Home Energy Assistance Program (LIHEAP).
- (10) Missouri Universal Service Board (board)—The board established by section 392.248.1, RSMo [*Supp.*] 2000 and comprised of members of the commission and the Public Counsel, which shall supervise the management of the MoUSF.
- (11) Missouri Universal Service Fund (MoUSF or Fund)—The universal service fund established by section 392.248, RSMo [*Supp.*] 2000 to be 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) To assist low-income customers and disabled customers in obtaining affordable essential telecommunications services;
 - (C) 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.

(12)—Net jurisdictional revenue—Net jurisdictional revenue shall include all revenues received by an applicable carrier from retail customers resulting from the provision of intrastate regulated telecommunications services, but shall not include revenue from payphone operations, taxes and uncollectibles. Revenues received from another provider of telecommunications services 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.

(13) 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.

(14) 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.

AUTHORITY: sections 392.200.2, 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.*

Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, RSMo 1987. Emergency amendment filed May 31, 2005, effective June 10, 2005, expires February 15, 2006. A proposed amendment covering this same material will be submitted for publication in a subsequent issue of the **Missouri Register.*

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EMERGENCY AMENDMENT

4 CSR 240-31.050 Eligibility for Funding—Low-Income Customers and Disabled Customers.

The commission is amending section (2), subsection (C); adding section (2), subsection (D); amending section (3), subsection (D); inserting new section (3), subsection (E) and subsection (F); and relettering subsequent subsections.

PURPOSE: This proposed amendment incorporates reporting requirements in Section 2(C) and eligibility requirements in section 3(E) consistent with federal guidelines with an emergency rulemaking. A proposed amendment covering this same material will be filed within the next few weeks.

*EMERGENCY STATEMENT: The General Assembly created and the Missouri Public Service Commission approved the establishment of a Missouri Universal Service Fund to help low income and disabled Missourians receive discounts for basic local telephone service. This emergency amendment is necessary to establish record retention requirements for documents used in determining the eligibility of customers qualifying for low-income or disabled support. The emergency amendment also allows customers 60 days to show continued eligibility before losing low-income or disabled support. The Federal Communications Commission has promulgated rules and required state commissions to become consistent with federal rules by June 22, 2005. Certain telecommunications companies have expressed concerns that their federal Universal Service Fund support may be jeopardized if the Missouri Public Service Commission does not implement these rules by June 22, 2005. The FCC rules anticipate that some states will have their own rules. These states are known as non-default states and have the effect of preempting some of the federal rules relating to universal service funds. This Commission has indicated that it desires to maintain its own rules rather than defaulting to the FCC guidelines. If the Missouri Public Service Commission does not promulgate these rules, Missouri runs the risk of defaulting to the federal rules; thus, potentially subjecting carriers to costly and burdensome requirements (such as income-based criteria) this Commission chose not to incorporate. The Missouri Public Service Commission has used procedures best calculated to assure fairness to all interested persons and parties under the circumstances because it has discussed the emergency amendment with representatives of the telecommunications industry in Missouri. This emergency amendment follows procedures which comply with the protections extended by the **Missouri and United States Constitutions**. The scope of this emergency amendment is limited to the circumstances creating an emergency and requiring emergency action. A proposed amendment covering the same material will be published in a subsequent edition of the **Missouri Register**. This emergency amendment was filed May 31, 2005, effective June 10, 2005, and expires February 15, 2006.*

(1) A telecommunications company shall be eligible to receive support to assist low-income customers and disabled customers if it—

(A) Provides eligible low-income customers and disabled customers with essential local telecommunications services;

(B) Provides such local telecommunications services which are identical to the telecommunication services required by the Federal Lifeline Program at the rate established by the commission for such customers; and

(C) Is a telecommunications company providing telecommunications service as defined in 386.020(53), RSMo 2000.

(2) Reporting Requirements.

(A) Telecommunications companies meeting the criteria of section (1) above will report the number of low-income customers and disabled customers receiving discounted services supported by the Missouri Universal Service Fund (MoUSF) to the Fund Administrator on a monthly basis; and

(B) The eligible telecommunications companies shall maintain a record of low-income customers and disabled customers receiving discounted services supported by the MoUSF by reporting period.

(C) The eligible telecommunications companies shall maintain records to document compliance with all requirements governing the low-income customer program for the three (3) full preceding calendar years and provide that documentation to the commission or Fund Administrator upon request.

(D) Reporting requirements for wholesale or resold services.

1. If a telecommunications company provides low-income customer or disabled customer discounted wholesale services to a reseller, it must obtain a certification from the reseller that it is complying with all commission requirements governing the low-income customer or disabled customer programs.

2. Non-eligible-telecommunications-company resellers that purchase low-income customer or disabled customer discounted wholesale services to offer discounted services to low-income or disabled consumers must maintain records to document compliance with all commission requirements governing the low-income customer or disabled customer programs for the three (3) full preceding calendar years and provide that documentation to the commission or Fund Administrator upon request or until audited.

(3) Individual Eligibility.

(A) Individuals will be eligible to receive essential local telecommunications service as established by the commission for low-income customers if they satisfy the definition of “low-income customer” found at 4 CSR 240-31.010(9).

(B) Individuals will be eligible to receive essential local telecommunications service as established by the commission for disabled customers if they satisfy the definition of “disabled customer” found at 4 CSR 240-31.010(4).

(C) Individuals will only be eligible to receive discounted services supported by either the low-income or disabled segment of the MoUSF for essential local telecommunications service provided to residential customers.

(D) Individuals who qualify for low-income or disabled support shall certify in writing on an application designed for that purpose that they are eligible for the programs. Such application shall require the applicant to certify under penalty of perjury that the individual receives benefits from one of the qualifying programs and identify the program or programs from which that individual receives benefits. On the same document, a qualifying low-income or disabled individual also must agree to notify the carrier if that individual ceases to participate in the program or programs. **The application shall be used to certify individuals for both state and federal low-income support.** The companies shall rely upon this certification to provide the benefits under these programs until

[the] individuals advise[s] the company that they are no longer qualified or until the company is advised by the administrator that the individuals may not be eligible.

(E) The telecommunications company shall, by December 31, 2005, establish procedures to verify a customer's continued eligibility for the low-income or disabled customer program. Verification procedures may include, but are not limited to, compliance with federal verification requirements, random beneficiary surveys, periodic submission of documentation showing participation in qualifying programs or periodic self-certification updates.

(F) The telecommunications company shall terminate an individual's enrollment in the low-income customer or disabled customer program if the customer ceases to meet eligibility requirements. Notification of impending termination shall be in the form of a letter separate from the individual's monthly bill. Individuals shall be allowed sixty (60) days following the date of the impending termination letter to demonstrate continued eligibility to the telecommunications company. The telecommunications company shall terminate discounted services supported by the low-income customer or disabled customer program to any customer who fails to demonstrate continued eligibility within the sixty (60) day time period.

([E]G) Any eligible individual submitting an application within sixty (60) days of initiating service will be entitled to the applicable low-income or disabled discounts from the date of service initiation. If applicable, the company may provide either a refund or credit, as determined by the company. Any eligible individual submitting an application after sixty (60) days of initiating service will begin receiving the appropriate discounts on a prospective basis.

([F]H) The fund administrator shall be authorized by the board to conduct audits of individual self-certification using records that can be lawfully made available from the administrators of qualifying programs. If as a result of these audits, the administrator determines that a recipient may not be eligible for low-income or disabled support, the individual shall be required to verify eligibility for continuing to receive support pursuant to administrative procedures established by the fund administrator and approved by the board.

(4) Determining participation for essential local telecommunications service: The amount of support provided by the MoUSF for services to low-income customers and disabled customers will be set at the level necessary pursuant to Federal Universal Service Fund rules to gain the maximum Federal Universal Service funding for services to such customers. However, the amount of combined federal and state lifeline support for any customer will not exceed the sum of the federal Subscriber Line Charge (SLC) and the recurring charges for essential local telecommunications services (including the basic service rate, Touch-Tone calling charge, extended area service additive, and mileage additives, if any).

(5) The commission may grant a waiver of, or variance from, this provision or from any provision of 4 CSR 240-31.010 through 4 CSR 240-31.110 for good cause, upon request or upon its own motion. A party wishing to obtain a waiver or variance shall file an application with the commission setting out the reason for its request.

AUTHORITY: sections 392.200.2, 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.*

Original authority: 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.248, RSMo 1996; and 392.470.1, RSMo 1987. Emergency amendment filed May 31, 2005, effective June 10, 2005, expires February 15, 2006. A proposed amendment covering this same material will be submitted for publication in a subsequent issue of the **Missouri Register.*