

**U**nder this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

**E**ntirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

**A**n important function of the *Missouri Register* is to solicit and encourage public participation in the rule-making process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

**I**f an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least 30 days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than 30 days after publication of the notice in the *Missouri Register*.

**A**n agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the 90-day-count necessary for the filing of the order of rulemaking.

**I**f an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than 30 days from the date of publication of the new notice.

*goals of the program and establishes guidelines for a business's eligibility for benefits under this program.*

(1) The Individual Training Account Program provides assistance to eligible businesses located in Missouri for the training or retraining activities designed to upgrade skills of current or potential employees.

(A) Through educational programs, businesses are reimbursed in the form of tax credits for costs associated with upgrade training to prepare existing or potential employees for higher skilled positions.

(B) A special emphasis shall be placed on trainees with obsolete or inadequate job skills.

(C) Job training programs shall attempt to prepare employed workers for positions that remain unfilled or that may be created by current or potential employers.

(2) In order to be eligible to receive assistance through the Individual Training Account Program, an employer must apply to the Division of Workforce Development (DWD) using forms prescribed by the DWD and providing all information required. An employer also must be liable for taxes incurred pursuant to the provisions of Chapter 143, RSMo (income tax) or Chapter 148, RSMo (taxation of financial institutions), and must be located within a distressed community as defined by section 135.530, RSMo to be eligible for participation in the program.

(A) The DWD may approve or disapprove an application based on its economic impact on the community and its eligible employees. Factors to be considered before approving an application include, but are not limited to:

1. The type of industry requesting assistance;
2. The company's total employment history in Missouri during the previous three years prior to the time of application;
3. The occupations, job duties and requirements, and respective wage rates; and
4. The type of training and the reasonableness of the training costs.

(B) If the business is covered by a collective bargaining agreement, no training project will be approved without written consultation from the appropriate local labor organization.

1. The employer shall send a request for written comments by certified mail, return receipt requested, to the bargaining agent for the appropriate local labor organization. The request shall specify that, if no comments are received by the DWD within fifteen (15) days of the bargaining agent's receipt of the request, the employer will assume the bargaining agent consents to the proposed training.

2. An employee that is promoted into a job that replaces or supplants an existing employee engaged in an authorized work stoppage is not eligible for the program.

3. An employee that is promoted into an occupation affected by an active layoff at the time of application or up to three hundred sixty-five (365) days prior to application, is not eligible for the program.

*AUTHORITY: sections 620.1400, 620.1410, 620.1440 and 620.1460, RSMo Supp. 1998. Original rule filed Aug. 27, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the*

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

### Division 195—Division of *[Job Development and Training]* Workforce Development

#### Chapter 5—General Rules, Individual Training Account Program

### PROPOSED RULE

#### 4 CSR 195-5.010 Purpose; Business Eligibility

*PURPOSE: The Department of Economic Development, Division of Workforce Development has the responsibility to administer the Individual Training Account Program and to approve or disapprove applications for this program. This proposed rule sets out the*

Department of Economic Development, Division of Workforce Development, Individual Training Account Program, P.O. Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

**Division 195—Division of [Job Development and Training] Workforce Development**

**Chapter 5—General Rules, Individual Training Account Program**

**PROPOSED RULE**

**4 CSR 195-5.020 Application to Participate and Qualifications for Tax Credits**

*PURPOSE:* This proposed rule sets out the process for an employer to participate in the Individual Training Account Program, and sets out how the employer makes subsequent application for tax credits after employee training is complete. This proposed rule also provides guidance as to what expenses qualify for tax credits.

(1) In order to participate in the Individual Training Account Program, an employer must submit an employer notification request using forms prescribed by the Division of Workforce Development (DWD) providing all information required to the DWD. The employer notification shall include, but is not limited to, the following:

- (A) Names and occupations of employees to be trained;
- (B) The trainees' social security numbers;
- (C) The date of hire or anticipated date of hire of the trainees and corresponding wage rates;
- (D) The name and location of the training provider(s);
- (E) The dates the training will occur for each trainee;
- (F) A description of the training to be provided; and
- (G) The company's Unemployment Insurance Identification Number.

(2) Training may begin after the notification is received and given preliminary approval by the DWD.

(A) Tax credits can only be claimed for training approved by the DWD.

(B) Training for each trainee cannot exceed two (2) calendar years.

(C) A maximum credit that can be claimed for each trainee is the lesser of fifty percent (50%) of the actual training costs or one thousand five hundred dollars (\$1,500) per year.

(3) In order to receive tax credits for upgrade training, an employer must submit a Tax Credit Request Form to the DWD.

(A) The employer must submit the following with the Tax Credit Request Form:

1. Verification from the training provider that the employee successfully completed training;
2. Documentation satisfactory to the DWD that the employee has increased their wage rates. Documentation of this may include, but is not limited to, copies of a payroll register;
3. Documentation satisfactory to the DWD that the employee has been employed in a new, full-time position with the employer for at least three (3) months; and
4. Documentation satisfactory to the DWD of the employee's responsibilities in their new position and a brief description of how these have increased from the employee's pretraining position.

(B) The DWD will verify the information on the Tax Credit Request Form, and notify the Department of Revenue.

(4) The employer/recipient may assign, sell or transfer, in whole or in part, the Individual Training Account Tax Credits.

(A) To perfect the transfer, the assignor (person selling the tax credits) shall provide written notice to DWD of the assignor's intent to transfer the tax credits to the assignee, the date the transfer is effective, the assignee's name and address, the assignee's tax period and the amount of tax credits to be transferred.

(B) The assignee shall provide written notice to DWD specifying the number of consecutive tax periods the transferred tax credits are to be claimed; except that, the number of tax periods during which the assignee may subsequently claim the tax credits shall not exceed five (5) tax periods less the number of tax periods the assignor previously claimed or held the tax credits before the transfer occurred.

(5) For the purpose of determining the amount of tax credits authorized, eligible training costs include tuition, instruction, curriculum design, training materials, the leasing of classroom space or training equipment, and other related training expenses that do not exceed the prevailing rates.

(A) Eligible training providers are local educational institutions that are publicly or privately funded and certified by the Department of Higher Education or the Department of Elementary and Secondary Education.

(B) The purchase of classroom facilities, space or training equipment are not eligible costs.

*AUTHORITY:* sections 620.1410, 620.1420, 620.1430, 620.1440 and 620.1460, RSMo Supp. 1998. Original rule filed Aug. 27, 1999.

*PUBLIC ENTITY COST:* This proposed rule is estimated to cost the Department of Economic Development, Division of Workforce Development, the administrating state agency for this tax credit program, approximately \$56,490.16 annually. This proposed rule is estimated to cost the Department of Revenue approximately \$6,000,000 annually as these tax credits can be applied directly to the state tax liabilities incurred by the taxpayers receiving the credits. For a detailed analysis of these costs, see the accompanying Public Entity Fiscal Note.

*PRIVATE ENTITY COST:* This proposed rule will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Economic Development, Division of Workforce Development, Individual Training Account Program, P.O. Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

## FISCAL NOTE PUBLIC ENTITY COST

### I. RULE NUMBER

**Title:** 4 – Department of Economic Development

**Division:** 195 – Division of Workforce Development

**Chapter:** 5 – General Rules, Individual Training Account Program

**Type of Rulemaking:** Proposed Rule

**Rule Number and Name:** 4 CSR 195-5.020 Application to Participate and Qualifications for Tax Credits

Prepared August 23, 1999 by Department of Economic Development in conjunction with the Division of Workforce Development, Individual Training Account Program

### II. SUMMARY OF FISCAL IMPACT

AGENCY AFFECTED	ESTIMATED COST OF COMPLIANCE
Department of Economic Development – Division of Workforce Development	\$56,490.16 annually
Department of Revenue	\$6,000,000.00 annually

### III. WORKSHEET

CATEGORY OF ALLOCATION	ANNUAL COST
Personal Service & Fringe Benefits (1.5 FTE)	\$50,210.16
Expense & Equipment (Communications)	\$1,310.00
Expense & Equipment (Office Expenses)	\$2,100.00
Expense & Equipment (Facilities)	\$1,370.00
Expense & Equipment (Travel)	\$1,500.00
<b>TOTAL</b>	<b>\$56,490.16</b>

### IV. ASSUMPTIONS

Personal service costs are incurred for one full-time program administrator and one half-time clerical support staff. Administrative staff expenses are incurred for implementing and managing the application process, evaluating applications for eligibility and compliance, working with interested businesses to aid in access and use of program benefits, supervising

support staff, issuing program benefits, maintaining database, and other miscellaneous program administration services. Support staff expenses are incurred for clerical support duties such as telephone, word processing, inputting information, mailing, providing applicants with general information about the program and other miscellaneous support staff services.

Expense and equipment costs are broken out into four categories: (1) Communications which include postage, telephone and other communications; (2) Office Expenses which include printing, supplies, miscellaneous operating expenses, equipment and equipment maintenance and repair; (3) Facilities which includes office space and maintenance; and (4) Travel.

The cost to the Missouri Department of Revenue assumes that all \$6,000,000 in tax credits allocated for this program annually will be applied toward the tax debts of the taxpayers claiming the credits.

The duration of the rule cannot be accurately estimated, as this program has no overall cap and no sunset clause. Therefore, the estimates presented in this fiscal note are based on annual expenses. Aggregate costs for a certain number of years can be estimated by multiplying the total annual costs by the number of years desired and adding an annual inflation factor of 2%.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 195—Division of [Job Development Training]  
Workforce Development**

**Chapter 5—General Rules, Individual Training Account  
Program**

**PROPOSED RULE**

**4 CSR 195-5.030 Employee/Trainee Eligibility**

*PURPOSE:* This proposed rule establishes guidelines for determining the eligibility of certain employees for training under the Individual Training Account Program, and clarifies when successful completion of the training program qualifies the employer to receive tax credits for the training activity.

(1) An eligible trainee must be a full- or part-time employed worker whose salary is equal to or less than two hundred percent (200%) of the present federal poverty level.

(A) Part-time employed workers must average a minimum of twenty (20) hours per week during the training period.

(B) A full-time position is defined as a job that averages a minimum of thirty-five (35) or more hours a week.

(2) Tax credits may not be claimed until a trainee has successfully completed training and has been employed for a minimum of three (3) months in the upgraded, full-time, permanent position. Tax credits may only be claimed by companies for employees on their respective payrolls.

(A) The upgraded position must offer the same benefits and comparable pay rates as other workers in the same occupation in the labor market area.

(B) The upgraded position assumed by the trainee upon completion of training must be consistent within a career pattern of advancement.

(C) Successful completion of training requires a showing that the employee has attained higher earnings, job advancement, and increased skill proficiency.

1. The higher wage rate shall be in addition to normal cost-of-living pay increases.

2. The wage rate must be equal to or higher than the average area wage rate for similar occupations.

3. The upgrade position must offer a minimum of fifty-one percent (51%) employer-funded medical benefits to the employee.

(D) Upgrade training is the progressive development of skills associated with a defined set of work processes.

*AUTHORITY:* sections 620.1410, 620.1420, 620.1440 and 620.1460, RSMo Supp. 1998. Original rule filed Aug. 27, 1999.

*PUBLIC ENTITY COST:* This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rule will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Economic Development, Division of Workforce Development, Individual Training Account Program, P.O. Box 1087, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.010 Definitions.** This rule defined terms used in the rules comprising Chapter 2, Practice and Procedure, and supplemented those definitions found in Chapter 386 of the *Missouri Revised Statutes*.

*PURPOSE:* This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

*AUTHORITY:* section 386.410, RSMo Supp. 1997. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Amended: Filed Aug. 17, 1998, effective March 30, 1999. Rescinded: Filed Aug. 24, 1999.

*PUBLIC ENTITY COST:* This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rescission will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-108 and be filed with an original and fourteen copies. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.010 Definitions**

*PURPOSE:* This rule defines terms used in the rules comprising Chapter 2, Practice and Procedure, and supplements those definitions found in Chapter 386 of the *Missouri Revised Statutes*.

(1) Applicant means any person, as defined herein, or public utility on whose behalf an application is made.

(2) Certificate of service means a document showing the caption of the case, the name of the party served, the date and manner of service, and the signature of the serving party or attorney.

(3) Commission means the Missouri Public Service Commission as created by Chapter 386 of the *Missouri Revised Statutes*.

(4) Commissioner means one (1) of the members of the commission.

(5) Commission staff means all personnel employed by the commission whether on a permanent or contractual basis who are not attorneys in the general counsel's office, who are not members of the commission's research department, or who are not law judges.

(6) Complainant means the commission, any person, corporation, municipality, political subdivision, the Office of the Public Counsel, the commission staff through the general counsel, or public utility who files a complaint with the commission.

(7) Corporation includes a corporation, company, association, or joint stock company or association, or any other entity created by statute which is allowed to conduct business in the state of Missouri.

(8) General counsel means the attorney who serves as counsel to the commission and includes the general counsel and all other attorneys who serve in the office of the general counsel.

(9) Highly confidential information may include material or documents relating directly to specific customers; employee-sensitive information; marketing analyses or other market-specific information relating to services offered in competition with others; reports, work papers or other documentation related to work produced by internal or external auditors or consultants; strategies employed, or to be employed, or under consideration in contract negotiations.

(10) Oath means attestation by a person signifying that he or she is bound in conscience and by the laws regarding perjury, either by swearing or affirmation to tell the truth.

(11) Party includes any applicant, complainant, petitioner, respondent, intervenor or public utility in proceedings before the commission. Commission staff and the public counsel are also parties unless they file a notice of their intention not to participate within the period of time established for interventions by commission rule or order.

(12) Person includes a natural person, corporation, municipality, political subdivision, state or federal agency, and a partnership.

(13) Pleading means any application, complaint, petition, answer, motion, or other similar written document, which is not a tariff or correspondence, and which is filed in a case. A brief is not a pleading under this definition.

(14) Political subdivision means any township, city, town, village, and any school, road, drainage, sewer and levee district, or any other public subdivision, public corporation or public quasi-corporation having the power to tax.

(15) Presiding officer means a commissioner, or a law judge licensed to practice law in the state of Missouri and appointed by the commission to preside over a case.

(16) Public counsel means the Office of Public Counsel as created by the Omnibus State Reorganization Act of 1974, and includes the assistants who represent the public before the commission.

(17) Proprietary information may include trade secrets, as well as confidential or private technical, financial and business information.

(18) Public utility includes every pipeline corporation, gas corporation, electrical corporation, telecommunications corporation, water corporation, heat or refrigeration corporation, sewer corporation, any joint municipal utility commission pursuant to section 386.020, RSMo which is regulated by the commission, or any other entity described by statute as a public utility which is to be regulated by the commission.

(19) Respondent means any person as defined herein or public utility subject to regulation by the commission against whom any complaint is filed.

(20) Rule means all of these rules as a whole or the individual rule in which the word appears, whichever interpretation is consistent with the rational application of this chapter.

(21) Settlement officer means a presiding officer who has been delegated to facilitate the settlement of a case.

(22) Schedule means any attachment, table, supplement, list, output, or any other document affixed to an exhibit.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Amended: Filed Aug. 17, 1998, effective March 30, 1999. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-108 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.015 Waiver of Rules**

*PURPOSE: This rule defines when the rules in this chapter may be waived.*

(1) A rule in this chapter may be waived by the commission for good cause.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-109 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.040 Practice Before the Commission.** This rule set forth who may practice as an attorney before the commission.

*PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.*

*AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-110 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.040 Practice Before the Commission**

*PURPOSE: This rule sets forth who may practice as an attorney before the commission.*

(1) The general counsel represents the staff in investigations, contested cases and other proceedings and appears for the commission in all courts and before federal regulatory bodies; and in general performs all duties and services as attorney and counsel to the commission which the commission may reasonably require.

(2) The public counsel represents the interests of the public before the commission.

(3) Attorneys who wish to practice before the commission shall fully comply with its rules and also comply with one (1) of the following criteria:

(A) An attorney who is licensed to practice law in the state of Missouri, and in good standing, may practice before the commission;

(B) A nonresident attorney who is a member of the Missouri Bar in good standing, but who does not maintain an office for the practice of law within the state of Missouri, may appear as in the case of a resident attorney;

(C) Any attorney who is not a member of the Missouri Bar, but who is a member in good standing of the bar of any court of record may petition the commission for leave to be permitted to appear

and participate in a particular case under all of the following conditions:

1. The visiting attorney shall file in a separate pleading a statement identifying each court of which that attorney is a member and certifying that neither the visiting attorney nor any member of the attorney's firm is disqualified to appear in any of these courts;

2. The statement shall designate some member in good standing of the Missouri Bar having an office within Missouri as associate counsel; and

3. The designated Missouri attorney shall simultaneously enter an appearance as an attorney of record.

(4) An eligible law student may petition the commission to be allowed to appear. Such application must comply with any applicable rules or statutes.

(5) Practice by Nonattorneys. A natural person may represent himself or herself. Such practice is strictly limited to the appearance of a natural person on his or her own behalf and shall not be made for any other person or entity.

(6) After an attorney has entered an appearance for any party, the attorney may withdraw only by leave of the commission.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-110 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.050 Computation of Effective Dates.** This rule set standards for computation of effective dates of any order or time prescribed by the commission when no specific date was set by commission order.

*PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.*

*AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-III and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.050 Computation of Effective Dates**

*PURPOSE: This rule sets standards for computation of effective dates of any order or time prescribed by the commission when no specific date is set by commission order.*

(1) In computing any period of time prescribed or allowed by the commission, the day of the order, act, event, or default shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which case the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. This rule does not apply when the commission establishes a specific date by which an action must occur, nor does it operate to extend effective dates which are established by statute.

(2) In computing the effective date of any order of the commission, the order is considered effective at 12:01 a.m. on the effective date designated in the order, whether or not the date is a Saturday, Sunday or legal holiday.

(3) When an act is required or allowed to be done by order or rule of the commission at or within a specified time, the commission, at its discretion, may—

(A) Order the period enlarged before the expiration of the period originally prescribed or as extended by a previous order; or

(B) After the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-III and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.060 Applications.** This rule set forth the requirements which must be met by applications to the commission requesting relief under statutory or other authority.

*PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.*

*AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Amended: Filed Feb. 3, 1987, effective May 1, 1987. Amended: Filed May 11, 1988, effective Aug. 11, 1988. Amended: Filed Feb. 5, 1993, effective Oct. 10, 1993. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-II2 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.060 Applications**

*PURPOSE: Applications to the commission requesting relief under statutory or other authority must meet the requirements set forth in this rule.*

(1) All applications shall comply with the requirements of these rules and shall include the following information:

(A) The legal name of each applicant, a statement of the nature of each applicant, whether a Missouri corporation, foreign corporation, partnership, proprietorship, or other business organization, the street and mailing address of the principal office or place of business of each applicant and each applicant's electronic mail address, fax number and telephone number, if any;

(B) If any applicant is a Missouri corporation, a Certificate of Good Standing from the secretary of state;

(C) If any applicant is a foreign corporation, a certificate from the secretary of state that it is authorized to do business in Missouri;

(D) If any applicant is a partnership, a copy of the partnership agreement;



(E) If any applicant does business under a fictitious name, a copy of the registration of the fictitious name with the secretary of state;

(F) If any applicant is a political subdivision, a specific reference to and a copy of the statutory provision or other authority under which it operates;

(G) If any applicant has submitted the applicable information as set forth in subsections (1)(B)–(F) of this rule in a previous application, the same may be incorporated by reference to the case number in which the information was furnished, so long as such applicable information is current and correct;

(H) A brief statement of the character of business performed by each applicant;

(I) Name, title, address and telephone number of the person to whom correspondence, communications and orders and decision of the commission are to be sent, if other than to the applicant's legal counsel;

(J) If any applicant is an association, a list of all of its members;

(K) A statement indicating whether the applicant has any pending or final judgments or decisions against it from any state or federal agency or court which involve customer service or rates;

(L) A verified statement that no annual report or assessment fees are overdue; and

(M) All applications shall be subscribed and verified by affidavit under oath by one (1) of the following methods: if an individual, by that individual; if a partnership, by an authorized member of the partnership; if a corporation, by an authorized officer of the corporation; if a municipality or political subdivision, by an authorized officer of the municipality or political subdivision; or by the attorney for the applicant if the application includes or is accompanied by a verified statement that the attorney is so authorized.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

(3) Competitive telecommunications companies are exempt from subsections (7)(A)–(D), (8)(A)–(E), and (11)(C)–(G) of this rule; however, they must file a pleading indicating which company will be holding the certificate of service authority and providing service to Missouri customers, and the tariff under which service will be provided.

(4) In addition to the requirements of subsection (1), applications for a certificate of convenience and necessity by a gas, electric, water, sewer or heating company shall include the following information:

(A) If the application is for a service area—

1. A statement as to the same or similar utility service, regulated and nonregulated, available in the area requested;

2. If there are ten (10) or more residents or landowners, the name and address of no fewer than ten (10) persons residing in the proposed service area or of no fewer than ten (10) landowners in the event there are no residences in the area, or, if there are fewer than ten (10) residents or landowners, the name and address of all residents and landowners;

3. The legal description of the area to be certificated;

4. A plat drawn to a scale of one-half inch (1/2") to the mile on maps comparable to county highway maps issued by the Missouri Department of Transportation or a plat drawn to a scale of two thousand feet (2,000') to the inch; and

5. A feasibility study containing plans and specifications for the utility system and estimated cost of the construction of the utility system during the first three (3) years of construction; plans for financing; proposed rates and charges and an estimate of the num-

ber of customers, revenues and expenses during the first three (3) years of operations;

(B) If the application is for electrical transmission lines, gas transmission lines or electrical production facilities—

1. A description of the route of construction and a list of all electric and telephone lines of regulated and nonregulated utilities, railroad tracks or any underground facility, as defined in section 319.015, RSMo, which the proposed construction will cross;

2. The plans and specifications for the complete construction project and estimated cost of the construction project or a statement of the reasons the information is currently unavailable and a date when it will be furnished; and

3. Plans for financing;

(C) When no evidence of approval of the affected governmental bodies is necessary, a statement to that effect;

(D) When approval of the affected governmental bodies is required, evidence must be provided as follows:

1. When consent or franchise by a city or county is required, approval shall be shown by a certified copy of the document granting the consent or franchise, or an affidavit of the applicant that consent has been acquired; and

2. A certified copy of the required approval of other governmental agencies; and

(E) The facts showing that the granting of the application is required by the public convenience and necessity.

(5) In addition to the requirements of section (1), applications for a certificate of interexchange service authority to provide customer-owned coin telephone (COCT) service shall be filed on the form provided by the commission.

(A) Applications for COCT service shall include a description of the general area in which service is to be offered.

(B) Providers of COCT service shall be exempt from the provisions of sections 392.390(1) and (3), RSMo, but shall remain subject to the provisions of section 386.370, RSMo.

(6) In addition to the requirements of section (1), applications for a certificate of service authority to provide telecommunications services, whether interexchange, local exchange or basic local exchange, shall include:

(A) A request to be classified as a competitive telecommunications company, if applicable, and a description of the types of service the applicant intends to provide;

(B) If the application is for basic local exchange service authority, the applicant shall indicate the exchange(s) in which service is to be offered; and

(C) A proposed tariff with an effective date which is not fewer than forty-five (45) days after the tariff's issue date.

(7) In addition to the requirements of section (1), applications for authority to sell, assign, lease or transfer assets shall include:

(A) A brief description of the property involved in the transaction, including any franchises, permits, operating rights or certificates of convenience and necessity;

(B) A copy of the contract or agreement of sale;

(C) The verification of proper authority by the person signing the application or a certified copy of resolution of the board of directors of each applicant authorizing the proposed action;

(D) The reasons the proposed sale of the assets is not detrimental to the public interest;

(E) If the purchaser is subject to the jurisdiction of the commission, a balance sheet and income statement with adjustments showing the results of the acquisitions of the property; and

(F) For gas, electrical, telecommunications, water and sewer companies, a statement of the impact, if any, the sale, assignment, lease or transfer of assets will have on the tax revenues of the polit-

ical subdivisions in which any structures, facilities or equipment of the companies involved in that sale are located.

(8) In addition to the requirements of section (1), applications for authority to merge or consolidate shall include:

(A) A copy of the proposed plan and agreement of corporate merger and consolidation, including organizational charts depicting the relationship of the merging entities before and after the transaction;

(B) A certified copy of the resolution of the board of directors of each applicant authorizing the proposed merger and consolidation;

(C) The balance sheets and income statements of each applicant and a balance sheet and income statement of the surviving corporation;

(D) The reasons the proposed merger is not detrimental to the public interest;

(E) An estimate of the impact of the merger on the company's Missouri jurisdictional operations and a list of all documents generated relative to the analysis of the merger and acquisition in question; and

(F) For gas, electrical, water, sewer and telecommunications companies, a statement of the impact, if any, the merger or consolidation will have on the tax revenues of the political subdivision in which any structures, facilities or equipment of the companies involved are located.

(9) If the purchaser under either section (7) or (8) is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(10) In addition to the requirements of section (1), applications for gas storage companies for authority to acquire property through eminent domain proceedings shall include:

(A) The legal description of the areas to be acquired;

(B) A map showing the areas to be acquired;

(C) Names and addresses of all persons who may have any legal or equitable title of record in the property to be acquired; and

(D) The reasons it is necessary to acquire the property and why it is in the public interest.

(11) In addition to the requirements of section (1), applications for authority to issue stock, bonds, notes and other evidences of indebtedness shall contain the following:

(A) A brief description of the securities which applicant desires to issue;

(B) A statement of the purpose for which the securities are to be issued and the use of the proceeds;

(C) Copies of executed instruments defining the terms of the proposed securities—

1. If these instruments have been previously filed with the commission, a reference to the case number in which the instruments were furnished;

2. If these instruments have not been executed at the time of filing, a statement of the general terms and conditions to be contained in the instruments which are proposed to be executed; and

3. If none of these instruments is either executed or to be executed, a statement of how the securities are to be sold;

(D) A certified copy of resolutions of the directors of applicant authorizing the issuance of the securities;

(E) A balance sheet and income statement with adjustments showing the effects of the issuance of the proposed securities upon—

1. Bonded and other indebtedness; and

2. Stock authorized and outstanding;

(F) A statement of what portion of the issue is subject to the fee schedule in section 386.300, RSMo; and

(G) A five (5)-year capitalization expenditure schedule as required by section 392.310 or 393.200, RSMo.

(12) In addition to the requirements of section (1), applications for authority to acquire the stock of a public utility shall include:

(A) A statement of the offer to purchase stock of the public utility or a copy of any agreement entered with shareholders to purchase stock;

(B) A certified copy of the resolution of the directors of applicant authorizing the acquisition of the stock; and

(C) Reasons why the proposed acquisition of the stock of the public utility is not detrimental to the public interest.

(13) In addition to the requirements of section (1), applications for commission approval of territorial agreements shall include:

(A) A copy of the territorial agreement and a specific designation of the boundary, including legal description;

(B) An illustrative tariff which reflects any changes in a regulated utility's operations or certification;

(C) An explanation as to why the territorial agreement is in the public interest;

(D) A list of all persons whose utility service would be changed by the agreement; and

(E) A check for fees required by these rules.

(14) In addition to the requirements of section (1), applications for variances or waivers from commission rules and tariff provisions, as well as those statutory provisions which may be waived, shall contain information as follows:

(A) Specific indication of the statute, rule or tariff from which the variance or waiver is sought;

(B) The reasons for the proposed variance or waiver and a complete justification setting out the good cause for granting the variance or waiver; and

(C) The name of any public utility affected by the variance or waiver.

(15) In addition to the requirements of section (1), applications for commission authority for a change of electrical suppliers shall include:

(A) A description of the structure where the change of supplier is sought, and the street address of the structure;

(B) The name and address of the electrical supplier currently providing service to the structure;

(C) The name and address of the electrical supplier to which the applicant wishes to change;

(D) The applicant's reasons for seeking a change of supplier;

(E) If the applicant's reasons involve service problems, a description of the problems and dates of occurrence, if known;

(F) If the applicant's reasons involve service problems, a description of the contacts which applicant has had with the current supplier regarding the problems, if any, and what efforts the current supplier has made to solve the problems, if any;

(G) The reasons a change of electrical suppliers is in the public interest;

(H) If the current electrical supplier and the requested electrical supplier agree to the requested change, a verified statement for each supplier with the application, indicating agreement; and

(I) If the applicant is an electrical supplier, a list of the names and addresses of all customers whose electrical supplier is proposed to be changed.

(16) A name change may be accomplished by filing the items below with a cover letter requesting a change of name. Notwithstanding any other provision of these rules, the items

required herein may be filed by a nonattorney. Applications for approval of a change of name shall include:

(A) A statement, clearly setting out both the old name and the new name;

(B) Evidence of registration of the name change with the Missouri secretary of state; and

(C) Either an adoption notice and revised tariff title sheet with an effective date which is not fewer than thirty (30) days after the filing date of the application, or revised tariff sheets with an effective date which is not fewer than thirty (30) days after the filing date of the application.

(17) In addition to the requirements of section (1), applications for a certificate of service authority to provide shared tenant services (STS) shall be filed on the form provided by the commission.

(A) STS applications shall include:

1. A description of all telecommunications services to be offered at the certificated location;

2. A description of any non-telecommunications services to be offered at the certificated location;

3. A copy of the contract or contracts to be used with tenants at the certificated location;

4. A copy of the contract or contracts to be signed with the local exchange company (LEC);

5. A description of the type of STS technology to be used at the certificated location;

6. A description of the form of interconnection to be used to provide toll services to tenants at the certificated location;

7. A copy of the notice used to inform tenants that local exchange access line service may not be immediately available if STS is terminated at the certificated location;

8. A statement of the rates to be charged tenants at the certificated location; and

9. A statement of the total number of tenants and corresponding stations to be served at the certificated location.

(B) Applicant shall submit annual reports filed on the form provided by the commission. Each such report shall include a list of all premises at which applicant provides STS, and a list of all STS-related complaints received from tenants, including a summary of the nature of each such complaint, and a list of case numbers for any formal complaints filed with the commission.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Amended: Filed Feb. 3, 1987, effective May 1, 1987. Amended: Filed May 11, 1988, effective Aug. 11, 1988. Amended: Filed Feb. 5, 1993, effective Oct. 10, 1993. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-II2 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.065 Tariff Filings Which Create Docketed Cases.**  
This rule established when a docketed case would be established for a tariff.

*PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.*

*AUTHORITY: section 386.410, RSMo 1994. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-II3 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.065 Tariff Filings Which Create Cases**

*PURPOSE: This rule establishes when a case shall be opened for a tariff.*

(1) When a public utility submits a tariff which constitutes a general rate increase request, the commission shall establish a case file for the tariff. The tariff and all pleadings, orders, briefs, and correspondence regarding the tariff shall be filed in the case file established for the tariff. The tariff submitted shall be in compliance with the provisions of the rules relating to the separate utilities. A tariff filed which proposes a general rate increase request shall also comply with the minimum filing requirements of these rules for general rate increase requests. Any public utility which submits a general rate increase request shall simultaneously submit its direct testimony with the tariff.

(2) When a public utility submits a tariff for commission approval but requests the tariff become effective in fewer than thirty (30) days, the commission shall establish a case file for the tariff. In addition, the public utility shall file a Motion for Expedited Treatment and comply with the expedited treatment portion of these rules. The tariff and all pleadings, orders, briefs, and correspondence shall be filed in the case file established for the tariff.

(3) When a pleading, which objects to a tariff or requests the suspension of a tariff, is filed, the commission shall establish a case file for the tariff and shall file the tariff and pleading in that case

file. All subsequent pleadings, orders, briefs, and correspondence concerning the tariff shall be filed in the case file established for the tariff. Any pleading to suspend a tariff shall attach a copy of the tariff and include a certificate of service to confirm that the party who submitted the tariff has been served with the pleading.

(4) A case will not be established to consider tariff sheets submitted by a regulated utility which do not meet the circumstances of sections (1)–(3) of this rule, except that a case shall be established when tariff sheets are suspended by the commission on its own motion or, when suspended, upon the recommendation of staff.

(5) When a public utility extends the effective date of a tariff, it shall file one (1) original, and eight (8) copies of a letter extending the tariff effective date in the official case file. Notwithstanding any other provision of these rules, this letter may be filed by a nonattorney.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-113 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.070 Complaints.** This rule established the procedures for filing formal and informal complaints with the commission.

*PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.*

*AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999.*

*Comments should refer to Case No. AX-2000-114 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.070 Complaints**

*PURPOSE: This rule establishes the procedures for filing formal and informal complaints with the commission.*

(1) The commission on its own motion, the commission staff through the general counsel, the office of the public counsel, or any person or public utility who feels aggrieved by a violation of any statute, rule, order or decision within the commission's jurisdiction may file a complaint. The aggrieved party, or complainant, has the option to file either an informal or a formal complaint.

(2) Informal Complaints. To file an informal complaint, the complainant shall state, either in writing, by telephone (consumer services hotline 1-800-392-4211, or TDD hotline 1-800-829-7541), or in person at the commission's offices—

(A) The name, street address and telephone number of each complainant and, if one (1) person asserts authority to act on behalf of the others, the source of that authority;

(B) The address where the utility service was rendered;

(C) The name and address of the party against whom the complaint is filed;

(D) The nature of the complaint, and the complainant's interest therein;

(E) The relief requested; and

(F) The measures taken by the complainant to resolve the complaint.

(3) Formal Complaints. If a complainant is not satisfied with the outcome of the informal complaint, a formal complaint may be filed. Formal complaint may be made by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any person, corporation or public utility, including any rule or charge established or fixed by or for any person, corporation or public utility, in violation or claimed to be in violation of any provision of law or of any rule or order or decision of the commission. However, no complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates or charges of any public utility unless the complaint is signed by the public counsel, the mayor or the president or chairman of the board of aldermen or a majority of the council or other legislative body of any town, village, county or other political subdivision, within which the alleged violation occurred, or not fewer than twenty-five (25) consumers or purchasers or prospective consumers or purchasers of public utility gas, electricity, water, sewer or telephone service as provided by law. Any public utility has the right to file a formal complaint on any of the grounds upon which complaints are allowed to be filed by other persons and the same procedure shall be followed as in other cases.

(4) The commission shall not be required to dismiss any complaint because of the absence of direct damage to the complainant.

(5) The formal complaint shall contain the following information:

(A) The name, street address, signature, telephone number, facsimile number and electronic mail address, where applicable, of each complainant and, if different, the address where the subject utility service was rendered;

(B) The name and address of the person, corporation or public utility against whom the complaint is being filed;

(C) The nature of the complaint and the complainant's interest in the complaint, in a clear and concise manner;

(D) The relief requested;

(E) A statement as to whether the complainant has directly contacted the person, corporation or public utility about which complaint is being made;

(F) The jurisdiction of the commission over the subject matter of the complaint; and

(G) If the complainant is an association, a list of all its members.

(6) The commission, on its own motion or on the motion of a party, may after notice dismiss a complaint for failure to state a claim on which relief may be granted or failure to comply with any provision of these rules or an order of the commission, or may strike irrelevant allegations.

(7) Upon the filing of a complaint in compliance with these rules, the secretary of the commission shall serve by certified mail, postage prepaid, a copy of the complaint upon the person, corporation or public utility against whom the complaint has been filed, which shall be accompanied by a notice that the matter complained of be satisfied or that the complaint be answered by the respondent, unless otherwise ordered, within thirty (30) days of the date of the notice.

(8) The respondent shall file an answer to the complaint within the time provided. All grounds of defense, both of law and of fact, shall be raised in the answer. If the respondent has no information or belief upon the subject sufficient to enable the respondent to answer an allegation of the complaint, the respondent may so state in the answer and assert a denial upon that ground.

(9) If the respondent in a complaint case fails to file a timely answer, the complainant's averments may be deemed admitted and an order granting default entered. The respondent has seven (7) days from the issue date of the order granting default to file a motion to set aside the order of default and extend the filing date of the answer. The commission may grant the motion to set aside the order of default and grant the respondent additional time to answer if it finds good cause.

(10) The commission may order, at any time after the filing of a complaint, an investigation by its staff as to the cause of the complaint. The staff shall file a report of its findings with the commission and all parties to the complaint case. The investigative report shall not be made public unless released in accordance with sections 386.480, 392.210(2) or 393.140(3), RSMo, or during the course of the hearing involving the complaint.

(11) When the commission determines that a hearing should be held, the commission shall fix the time and place of the hearing. The commission shall serve notice upon the affected person, corporation or public utility not fewer than ten (10) days before the time set for the hearing, unless the commission finds the public necessity requires that the hearing be held at an earlier date.

(12) All matters upon which a complaint may be founded may be joined in one (1) hearing and no motion for dismissal shall be entertained against a complainant for misjoinder of causes of action or grievances or misjoinder or nonjoinder of parties.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-114 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.075 Intervention.** This rule prescribed the procedures by which an individual or entity may intervene in a proceeding or may participate without intervention.

*PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.*

*AUTHORITY: section 386.410, RSMo 1994. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

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*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-115 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.075 Intervention**

*PURPOSE: This rule prescribes the procedures by which an individual or entity may intervene in a case and allows for the filing of briefs by *amicus curiae*.*

(1) An application to intervene shall comply with these rules and shall be filed within thirty (30) days after the commission issues its order giving notice of the case, unless otherwise ordered by the commission.

(2) An application to intervene shall state the proposed intervenor's interest in the case and reasons for seeking intervention, and shall state whether the proposed intervenor supports or opposes

es the relief sought or that the proposed intervenor is unsure of the position it will take.

(3) An association filing an application to intervene shall list all of its members.

(4) The commission may on application permit any person to intervene on a showing that—

(A) The proposed intervenor has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case; or

(B) Granting the proposed intervention would serve the public interest.

(5) Applications to intervene filed after the intervention date may be granted upon a showing of good cause.

(6) Any person not a party to a case may petition the commission for leave to file a brief as an *amicus curiae*.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-II5 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.080 Pleadings.** This rule prescribed the content and procedure for filing pleadings before the commission.

*PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.*

*AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed May 15, 1980, effective Sept. 12, 1980. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Amended: Filed Feb. 23, 1990, effective May 24, 1990. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the*

*Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-II6 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.080 Pleadings, Filing, and Service**

*PURPOSE: This rule prescribes the content and procedure for filing pleadings before the commission and for service thereof.*

(1) Every pleading or brief shall be signed by at least one (1) attorney of record with the attorney's individual name or, if a natural person is not represented by an attorney, shall be signed by the natural person.

(2) Each pleading or brief shall state the signer's address, Missouri bar number, electronic mail address, fax number and telephone number, if any. If the attorney is not licensed in Missouri the signature shall be followed by the name of the state in which the attorney is licensed and any identifying number or nomenclature similarly used by the licensing state.

(3) Each pleading shall include a clear and concise statement of the relief requested and specific reference to the statutory provision or other authority under which relief is requested.

(4) Except when provided by rule or statute, pleadings or briefs need not be verified or accompanied by affidavit.

(5) An unsigned pleading or brief shall be stricken.

(6) The signer represents that he or she is authorized to so act, and that the signer is a licensed attorney-at-law in good standing in Missouri or has complied with the rules below concerning any attorney who is not a Missouri attorney or is appearing on his or her own behalf.

(7) By presenting or maintaining a claim, defense, request, demand, objection, contention, or argument in a pleading, motion, brief, or other document filed with or submitted to the commission, an attorney or party is certifying to the best of the signer's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that—

(A) The claim, defense, request, demand, objection, contention, or argument is not presented or maintained for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(B) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(C) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(D) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(8) Any person filing a pleading or a brief shall file with the secretary of the commission one (1) original and eight (8) copies of the pleading or brief.

(9) Each pleading may be accompanied by a cover letter which states the subject matter. This cover letter shall contain no matter for commission decision.

(10) Any person filing a pleading which initiates a formal complaint at the commission or filing a pleading in a formal complaint case shall file one (1) original or duplicate original and eight (8) copies of the pleading with the secretary of the commission unless otherwise ordered by the commission.

(11) The party filing a pleading or brief shall serve each other party a copy of the pleading or brief and cover letter. Any party may contact the secretary of the commission for the names and addresses of the parties in a case.

(12) The date of filing shall be the date the pleading or brief is stamped filed by the secretary of the commission.

(13) Pleadings and briefs in every instance shall display on the cover or first page the case number and the title of the case. In the event the title of a case contains more than one (1) name as applicants, complainants or respondents, it shall be sufficient to show only the first of these names as it appears in the first document commencing the case, followed by an appropriate abbreviation (et al.) indicating the existence of other parties. Unless a case is consolidated, pleadings or briefs shall be filed with only one (1) case number and title thereon.

(14) Pleadings and briefs shall be bound at the top or at an edge, shall be typewritten or printed upon white, eight and one-half by eleven-inch (8 1/2" × 11") paper. Attachments to pleadings or briefs shall be annexed and folded to eight and one-half by eleven-inch (8 1/2" × 11") size whenever practicable. Printing on both sides of the page is encouraged. Lines shall be double-spaced, except that footnotes and quotations in excess of three (3) lines may be single-spaced. Reproduction of any of these documents may be by any process provided all copies are clear and permanently legible.

(15) Pleadings and briefs which are not in substantial compliance with this rule, applicable statutes or commission orders shall not be accepted for filing. The secretary of the commission may return these pleadings or briefs with a concise explanation of the deficiencies and the reasons for not accepting them for filing. Tendered filings which have been rejected shall not be entered on the commission's docket. The mere fact of filing shall not constitute a waiver of any noncompliance with these rules and the commission may require amendment of a pleading or entertain appropriate motions in connection with the pleading.

(16) Parties shall be allowed seven (7) days from the date of filing in which to respond to any pleading unless otherwise ordered by the commission.

(17) Any party seeking expedited treatment in any case shall include in the title of the pleading the words "Motion for Expedited Treatment." The pleading shall also set out with particularity the following:

(A) The date by which the party desires the commission to act;

(B) The harm that will be avoided, or the benefit that will accrue, if the commission acts by the date desired by the party; and

(C) An attestation by the moving party that the pleading was filed as soon as it could have been or an explanation why it was not.

(18) Methods of Service.

(A) Any person entitled by law may serve a document on a represented party by—

1. Delivering it to the party's attorney;

2. Leaving it at the office of the party's attorney with a secretary, clerk or attorney associated with or employed by the attorney served; or

3. Mailing it to the last known address of the party's attorney.

(B) Any person entitled by law may serve a document on an unrepresented party by—

1. Delivering it to the party; or

2. Mailing it to the party's last known address.

(C) Service by mail is complete upon mailing.

(19) Unless otherwise provided by these rules or by other law, the party filing a pleading or brief shall serve every other party, including the general counsel and the public counsel, a copy of the pleading or brief and cover letter.

(20) Every pleading or brief shall include a certificate of service. Such certificate of service shall be adequate proof of service.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed May 15, 1980, effective Sept. 12, 1980. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Amended: Filed Feb. 23, 1990, effective May 24, 1990. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-116 and be filed with an original and fourteen copies. No public hearing is scheduled.*

## **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

### **Division 240—Public Service Commission**

#### **Chapter 2—Practice and Procedure**

### **PROPOSED RULE**

#### **4 CSR 240-2.085 Protective Orders**

*PURPOSE: This rule prescribes the procedures for obtaining a protective order.*

(1) Any party seeking a protective order in any case, shall request such by separate pleading denominated "Motion for Protective Order." The pleading shall state with particularity why the moving party seeks protection, and what harm may occur if the information is made public. The pleading shall also include a statement that none of the information for which a claim of confidentiality is made can be found in any format in any other public document.

(2) Pleadings, testimony, or briefs shall not contain highly confidential or proprietary information unless a protective order has been issued by the commission; except that if the pleading which initiates a case contains highly confidential or proprietary information, then the party shall file one (1) original, and eight (8) copies of the public version; and one (1) original, and eight (8)

copies of the complete version containing the information to be protected, together with a Motion for Protective Order. A highly confidential or proprietary copy of the pleadings shall be served on the parties, including general counsel and the public counsel.

(3) Unless otherwise ordered, after the issuance of a protective order all pleadings or exhibits shall be filed in the form of one (1) original and eight (8) copies of the protected matter and one (1) original of the public version.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-117 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.090 Discovery and Prehearings.** This rule prescribed the procedures for depositions, written interrogatories, data requests and prehearing conferences.

*PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.*

*AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-118 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.090 Discovery and Prehearings**

*PURPOSE: This rule prescribes the procedures for depositions, written interrogatories, data requests and prehearing conferences.*

(1) Discovery may be obtained by one (1) or more of the following methods: depositions upon oral examination or written questions, written interrogatories, requests for production of documents or things and requests for admission upon and under the same conditions as in civil actions in the circuit court. Sanctions for abuse of the discovery process or failure to comply with commission orders regarding discovery shall be the same as those provided for in the rules of civil procedure.

(2) Parties may use data requests as a means for discovery. The party to whom data requests are presented shall answer the requests within twenty (20) days after receipt unless otherwise agreed by the parties to the data requests. If the recipient objects to data requests or is unable to answer within twenty (20) days, the recipient shall serve all of the objections or reasons for its inability to answer in writing upon the requesting party within ten (10) days after receipt of the data requests, unless otherwise ordered by the commission. If the recipient asserts an inability to answer the data requests within the twenty (20)-day time limit, the recipient shall include the date it will be able to answer the data requests simultaneously with its reasons for its inability to answer. Upon agreement by the parties or for good cause shown, the time limits may be modified. As used in this rule, the term data request shall mean an informal written request for documents or information which may be transmitted directly between agents or employees of the commission, public counsel or other parties. Answers to data requests need not be under oath or be in any particular format, but shall be signed by a person who could attest to the truthfulness and correctness of the answers. Sanctions for failure to answer data requests shall be the same as those provided for abuse of the discovery process in section (1) of this rule. The responding party shall promptly notify the requesting party of any changes to the answers previously given to a data request.

(3) All prehearing conferences shall be held as directed by the commission or presiding officer, and reasonable notice of the prehearing conference time shall be given to the parties involved.

(4) Any party may petition the commission to hold a prehearing conference at any time prior to the hearing.

(5) If a party does not attend a prehearing conference and is not excused by the commission or presiding officer, the party may be dismissed from the case.

(6) Parties may consider procedural and substantive matters at the prehearing conference which may aid in the disposition of the issues. Matters which require a decision may be presented to the presiding officer during the conference.

(7) Facts disclosed in the course of a prehearing conference are privileged and, except by agreement, shall not be used against participating parties unless fully substantiated by other evidence.

(8) In any motion to compel or motion for sanctions, the moving party shall describe the attempts made to resolve the matter and shall attach the disputed discovery request and any answers and objections to it.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*



*PUBLIC ENTITY COST:* This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rule will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-II8 and be filed with an original and fourteen copies. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.100 Subpoenas.** This rule prescribed the procedures for requesting and issuing subpoenas for the production of witnesses and records.

*PURPOSE:* This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

*AUTHORITY:* section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

*PUBLIC ENTITY COST:* This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rescission will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-II9 and be filed with an original and fourteen copies. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.100 Subpoenas**

*PURPOSE:* The commission may issue subpoenas for the production of witnesses and records. This rule prescribes the procedures for requesting and issuing subpoenas.

(1) A request for a subpoena or a subpoena *duces tecum* requiring a person to appear and testify at the taking of a deposition or at a hearing, or for production of documents or records shall be filed on the form provided by the commission and shall be directed to the secretary of the commission. A request for a subpoena *duces tecum* shall specify the particular document or record to be pro-

duced, and shall state the reasons why the production is believed to be material and relevant.

(2) Except for a showing of good cause, a subpoena or subpoena *duces tecum* shall not be issued fewer than twenty (20) days before a hearing.

(3) Objections to a subpoena or subpoena *duces tecum* or motions to quash a subpoena or subpoena *duces tecum* shall be made within seven (7) days from the date the subpoena or subpoena *duces tecum* is served.

(4) Subpoenas or subpoenas *duces tecum* shall be signed and issued by the secretary of the commission, a commissioner or by a law judge pursuant to statutory delegation authority. The name and address of the witness shall be inserted in the original subpoena or subpoena *duces tecum* and a copy of the return shall be filed with the secretary of the commission. Subpoenas or subpoenas *duces tecum* shall show at whose instance the subpoena or subpoena *duces tecum* is issued. Blank subpoenas shall not be issued.

*AUTHORITY:* section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

*PUBLIC ENTITY COST:* This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rule will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-II9 and be filed with an original and fourteen copies. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.110 Hearings.** This rule prescribed the procedures for the setting, notice, and conduct of hearings.

*PURPOSE:* This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

*AUTHORITY:* section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed: Aug. 24, 1999.

*PUBLIC ENTITY COST:* This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rescission will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the

*Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-120 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.110 Hearings**

*PURPOSE: This rule prescribes the procedures for the setting, notices, and conduct of hearings.*

(1) The commission shall set the time and place for all hearings and serve notice as required by law. Additional notice may be served when the commission deems it to be appropriate.

(2) The presiding officer may order continuance of a hearing date for good cause.

(A) When a continuance has been granted at the request of the applicant or complainant, the commission may dismiss the case for failure to prosecute if it has not received a request from the applicant or complainant that the matter be again continued or set for hearing within ninety (90) days from the date of the order granting the continuance.

(B) Failure to appear at a hearing without previously having secured a continuance shall constitute grounds for dismissal of the party or the party's complaint, application or other action unless good cause for the failure to appear is shown.

(3) When pending actions involve related questions of law or fact, the commission may order a joint hearing of any or all the matters in issue, and may make other orders concerning cases before it to avoid unnecessary costs or delay.

(4) The presiding officer may limit the number of witnesses, exhibits, or the time for testimony.

(5) The order of procedure in hearings shall be as follows, unless otherwise agreed to by the parties or ordered by the presiding officer:

(A) In all cases except investigation cases, the applicant or complainant shall open and close, with intervenors following the general counsel and the public counsel in introducing evidence;

(B) In investigation cases, the general counsel shall open and close; and

(C) In rate cases, the general counsel shall be given the first opportunity to cross-examine.

(6) A reporter appointed by the commission shall make a full and complete record of all cases and testimony in any formal hearing.

(7) Suggested corrections to the transcript of record shall be offered within seven (7) days after the transcript is filed except for good cause shown. The suggestions shall be in writing and shall be served upon the presiding officer and each party. Objections to proposed corrections shall be made in writing within seven (7) days after the filing of the suggestions. The commission shall determine what changes, if any, shall be made in the record after a review of the suggested corrections and any objections.

(8) A party may request that the commission reopen a case for the taking of additional evidence if the request is made after the hearing has been concluded, but before briefs have been filed or oral argument presented, or before a decision has been issued in the absence of briefs or argument. Such a request shall be made by filing with the secretary of the commission a petition to reopen the record for the taking of additional evidence in accordance with these rules, and serving the petition on all other parties. The petition shall specify the facts which allegedly constitute grounds in justification, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing. The petition shall also contain a brief statement of the proposed additional evidence, and an explanation as to why this evidence was not offered during the hearing.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-120 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.115 Nonunanimous Stipulations and Agreements.**  
This rule prescribed the proceeding which resulted when a nonunanimous stipulation and agreement was presented to the commission.

*PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.*

*AUTHORITY: section 386.410, RSMo 1994. Original rule filed June 9, 1987, effective Sept. 15, 1987. Rescinded: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be consid-*

ered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-121 and be filed with an original and fourteen copies. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.115 Nonunanimous Stipulations and Agreements**

*PURPOSE:* This rule prescribes the procedure when a nonunanimous stipulation and agreement is presented to the commission.

(1) A nonunanimous stipulation and agreement is any stipulation and agreement which is entered into by fewer than all parties and where one (1) or more parties requests a hearing of one (1) or more issues. If no party requests a hearing, the commission may treat the stipulation and agreement as a unanimous stipulation and agreement.

(2) If a hearing is requested, the commission shall grant the request.

(3) A nonunanimous stipulation and agreement shall be filed as a pleading. Each party shall have seven (7) days from the filing of the nonunanimous stipulation and agreement to file a request for a hearing. Failure to file a timely request for hearing shall constitute a full waiver of that party's right to a hearing.

*AUTHORITY:* section 386.410, RSMo Supp. 1998. Original rule filed June 9, 1987, effective Sept. 15, 1987. Rescinded and readopted: Filed Aug. 24, 1999.

*PUBLIC ENTITY COST:* This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rule will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-121 and be filed with an original and fourteen copies. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.116 Dismissal.** This rule prescribed the conditions under which an initiating party may voluntarily dismiss a proceeding.

*PURPOSE:* This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

*AUTHORITY:* section 386.410, RSMo 1994. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

*PUBLIC ENTITY COST:* This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rescission will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-122 and be filed with an original and fourteen copies. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.116 Dismissal**

*PURPOSE:* This rule prescribes the conditions under which the commission or an initiating party may dismiss a case.

(1) An applicant or complainant may voluntarily dismiss an application or complaint without an order of the commission at any time before prepared testimony has been filed or oral evidence has been offered, by filing a notice of dismissal with the commission and serving a copy on all parties. Once evidence has been offered or prepared testimony filed, an applicant or complainant may dismiss an action only by leave of the commission, or by written consent of the adverse parties.

(2) Cases may be dismissed for lack of prosecution if no action has occurred in the case for ninety (90) days and no party has filed a pleading requesting a continuance beyond that time.

(3) A party may be dismissed from a case for failure to comply with any order issued by the commission.

(4) A case may be dismissed for good cause found by the commission after a minimum of ten (10) days notice to all parties involved.

*AUTHORITY:* section 386.410, RSMo Supp. 1998. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

*PUBLIC ENTITY COST:* This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rule will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-122 and be filed with an original and fourteen copies. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.120 Presiding Officers.** This rule stated the duties and responsibilities of presiding officers.

*PURPOSE:* This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

*AUTHORITY:* section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

*PUBLIC ENTITY COST:* This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rescission will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-123 and be filed with an original and fourteen copies. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.120 Presiding Officers**

*PURPOSE:* This rule states the duties of presiding officers and the procedure for disqualifying them.

(1) A presiding officer shall have the duty to conduct full, fair and impartial hearings, to take appropriate action to avoid unnecessary delay in the disposition of cases, to maintain order, and shall possess all powers necessary to that end. The presiding officer may take action as may be necessary and appropriate to the discharge of duties, consistent with the statutory authority or other authorities under which the commission functions and with the rules and policies of the commission.

(2) Whenever any party shall deem the presiding officer for any reason to be disqualified to preside, or to continue to preside, in a particular case, the party may file with the secretary of the commission a motion to disqualify with affidavits setting forth the grounds alleged for disqualification. A copy of the motion shall be served by the commission on the presiding officer whose removal is sought and the presiding officer shall have seven (7) days from the date of service within which to reply.

*AUTHORITY:* section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed

March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.

*PUBLIC ENTITY COST:* This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rule will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-123 and be filed with an original and fourteen copies. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.125 Procedures for Use of a Presiding Officer in Settlement Negotiations.** This rule established procedures which allow parties to utilize a presiding officer in settlement negotiations in order to resolve issues or the entire matter in dispute.

*PURPOSE:* This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

*AUTHORITY:* section 386.410, RSMo 1994. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.

*PUBLIC ENTITY COST:* This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rescission will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-124 and be filed with an original and fourteen copies. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.125 Procedures for Alternative Dispute Resolution**

*PURPOSE:* This rule establishes procedures which will allow parties to utilize alternative dispute resolution methods in order to resolve issues or the entire matter in dispute.

## (1) Settlement Negotiations.

(A) When the parties agree that the participation of a presiding officer in the settlement process would be beneficial, those parties shall file a motion for appointment of a settlement officer for that case. The motion shall contain—

1. A statement that all parties agree to the procedure;
2. A list of the issues to be addressed or matters the parties wish the presiding officer to aid them in resolving;
3. If there is no prefiled testimony, a description of the issues of each party; and
4. A date by which a settlement will be reached or settlement negotiations under this procedure will end.

(B) If the commission grants the motion for a settlement officer, it shall issue an order scheduling a settlement conference and shall appoint a presiding officer to participate in settlement negotiations.

(C) The negotiations and statements of the parties or attorneys made at the settlement conference shall be off the record and shall not be made a part of the official case.

(D) If a settlement is not reached before the date specified by the parties in their motion, the procedure shall end unless the parties all agree to an extension and the procedure is extended by order of the commission.

## (2) Mediation.

(A) Without prior notice or motion, the commission may order that mediation proceed in a complaint case before any further proceeding in such case.

(B) As the commission deems appropriate, or upon the filing of a request for mediation by any party, mediation services may be provided by a presiding officer or by a neutral third party for the purpose of identifying the issues and attempting a resolution.

(C) The written application for mediation services should include the case number, the names of each party and a brief explanation of the case.

(3) The settlement officer or the mediator, if that mediator is also a presiding officer, shall be disqualified from conducting an evidentiary hearing relating to that particular case and shall not make any communication regarding the settlement or mediation discussions in the case to any commissioner or the presiding officer appointed to preside over the case.

(4) The commission may order parties to engage in alternative dispute resolution with a commission authorized mediator.

(5) At any time, upon the request for mediation or upon the issuance of an order requiring mediation, all other actions on the case shall cease and all time limitations shall be tolled pending the completion of mediation process.

(6) Failure to participate in commission ordered mediation shall be grounds for dismissal of the noncompliant party.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999.*

*Comments should refer to Case No. AX-2000-124 and be filed with an original and fourteen copies. No public hearing is scheduled.*

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 240—Public Service Commission Chapter 2—Practice and Procedure

#### PROPOSED RESCISSION

**4 CSR 240-2.130 Evidence.** This rule prescribed the rules of evidence in any hearing before the commission.

*PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.*

*AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 6, 1981, effective Feb. 15, 1982. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Amended: Filed Feb. 23, 1990, effective May 24, 1990. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-125 and be filed with an original and fourteen copies. No public hearing is scheduled.*

#### Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

##### Division 240—Public Service Commission Chapter 2—Practice and Procedure

#### PROPOSED RULE

#### 4 CSR 240-2.130 Evidence

*PURPOSE: This rule prescribes the rules of evidence in any hearing before the commission.*

(1) In any hearing, section 536.070, RSMo shall apply, as supplemented by these rules.

(2) If any information contained in a document on file as a public record with the commission is offered in evidence, the document need not be produced as an exhibit unless directed otherwise by the presiding officer, but may be received in evidence by reference, provided that the particular portions of the document shall be specifically identified and are relevant and material.

(3) The presiding officer shall rule on the admissibility of all evidence. Evidence to which an objection is sustained, at the request of the party seeking to introduce the same or at the instance of the commission, nevertheless may be heard and preserved in the record, together with any cross-examination with respect to the evidence and any rebuttal of the evidence, unless it is wholly irrelevant.

evant, repetitious, privileged or unduly long. When objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly. Formal exceptions to rulings shall be unnecessary and need not be taken.

(4) In extraordinary circumstances where prompt decision by the commission is necessary to promote substantial justice, the presiding officer may refer a matter to the commission for determination during the progress of the hearing.

(5) The rules of privilege shall be effective to the same extent that they are now or may hereafter be in civil actions.

(6) Prepared testimony shall be typed or printed, in black type on white paper eight and one-half inches by eleven inches (8" × 11"); it shall be double-spaced and pages numbered consecutively at the bottom right-hand corner or bottom center beginning with the first page as page 1; it shall be filed unfolded and stapled together at the top left-hand margin or bound at an edge in booklet form; and it shall be filed in sufficient number of copies as required by order of the commission, observing the following margins: left-hand margin, one inch (1"); top margin, one inch (1"); right-hand margin, one inch (1"); and bottom margin, one inch (1"). Printing on both sides of the page is encouraged. Schedules shall bear the word "schedule" and the number of the schedule shall be typed in the lower right-hand margin of the first page of the schedule. All prepared testimony and other exhibits and schedules shall contain the following information in the following format on the upper right-hand corner of a cover sheet:

Exhibit No: (To be marked by the hearing reporter)

Issue: (If known at the time of filing)

Witness: (Full name of witness)

Type of Exhibit: (Specify whether direct, rebuttal, or other type of exhibit)

Sponsoring Party:

Case No.:

The prepared testimony of each witness shall be filed separately. Prepared testimony shall be filed on line-numbered pages. Testimony which addresses more than one (1) issue shall contain a table of contents.

(7) For the purpose of filing prepared testimony, direct, rebuttal, and surrebuttal testimony are defined as follows:

(A) Direct testimony shall include all testimony and exhibits asserting and explaining that party's entire case-in-chief;

(B) Where all parties file direct testimony, rebuttal testimony shall include all testimony which is responsive to the testimony and exhibits contained in any other party's direct case. A party need not file direct testimony to be able to file rebuttal testimony;

(C) Where only the moving party files direct testimony, rebuttal testimony shall include all testimony which explains why a party rejects, disagrees or proposes an alternative to the moving party's direct case; and

(D) Surrebuttal testimony shall be limited to material which is responsive to matters raised in another party's rebuttal testimony.

(8) No party shall be permitted to supplement prefiled prepared direct, rebuttal or surrebuttal testimony unless ordered by the presiding officer or the commission. A party shall not be precluded from having a reasonable opportunity to address matters not previously disclosed which arise at the hearing. This provision does not forbid the filing of supplemental direct testimony for the purpose of replacing projected financial information with actual results.

(9) Any or all parties may file a stipulation as to the facts, in which event the same shall be numbered as a joint exhibit. This stipula-

tion shall not preclude the offering of additional evidence by any party unless otherwise agreed in the stipulation.

(10) Exhibits shall be legible and, unless otherwise authorized by the commission, shall be prepared on standard eight and one-half inch by eleven inch (8" × 11")-size paper. The sheets of each exhibit shall be numbered and rate comparisons and other figures shall be set forth in tabular form.

(11) Exhibits shall be tendered to the reporter at the time of hearing without being prenumbered by the offering party, unless otherwise ordered by the commission.

(12) All exhibits shall be marked at the time of hearing, using a single series of numbers, unless otherwise ordered by the commission.

(13) When exhibits are offered in evidence, the original and two (2) copies shall be furnished to the reporter, and the party offering exhibits also shall be prepared to furnish a copy to each commissioner and presiding officer and each party, unless the copies have previously been furnished or the presiding officer directs otherwise.

(14) The presiding officer may require the production of further evidence upon any issue. The presiding officer may authorize the filing of specific evidence as a part of the record within a fixed time after submission, reserving exhibit numbers, and setting other conditions for such production.

(15) Evidence for which a claim of confidentiality is made shall be filed in conformance with a protective order approved by the commission. Parties shall obtain a protective order prior to filing of documentary evidence.

(16) All testimony shall be taken under oath.

(17) All late filed exhibits shall be submitted by simultaneously providing a copy to all parties, and by submitting an original and eight (8) copies to the presiding officer. Unless otherwise ordered, any objection to the admission of a late filed exhibit must be filed within seven (7) days of the date the exhibit was tendered.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 6, 1981, effective Feb. 15, 1982. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Amended: Filed Feb. 23, 1990, effective May 24, 1990. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-125 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.140 Briefs and Oral Arguments.** This rule set forth the procedures for filing briefs and presenting oral arguments in any hearing before the commission.

*PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.*

*AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-126 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.140 Briefs and Oral Arguments**

*PURPOSE: This rule sets forth the procedures for filing briefs and presenting oral arguments in any hearing.*

(1) The commission or presiding officer shall determine whether the parties may file briefs or present oral argument, or both, in any case.

(2) Unless otherwise ordered by the commission or presiding officer, when briefs are to be filed in any case, the parties shall have twenty (20) days after the date on which the complete transcript of the hearing is filed to file their initial briefs. Unless otherwise ordered by the commission or presiding officer, the parties shall have ten (10) days after the filing of the initial briefs to file their reply briefs. When a reply brief is due ten (10) days after filing of initial briefs, the initial briefs shall be sent to all parties by overnight mail or hand-delivered on the day of filing or the next day.

(3) Unless otherwise ordered by the commission or presiding officer, the time allowed for oral argument shall be—

(A) For an applicant or complainant, thirty (30) minutes, which may be divided between the initial argument and reply argument, but no more than one-third (1/3) of the time shall be consumed by the reply argument; and

(B) For all other parties, a total of fifteen (15) minutes each.

(4) The commission may at its discretion order the parties to file suggested findings of fact, conclusions of law, and ordered paragraphs.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-126 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.150 Orders of the Commission.** This rule prescribed the method of issuing commission orders and the effective date of such orders.

*PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.*

*AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-127 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.150 Decisions of the Commission**

*PURPOSE: This rule prescribes the method of issuing commission orders and the effective date of such orders.*

- (1) The record of a case shall stand submitted for consideration by the commission after the recording of all evidence or, if applicable, after the filing of briefs or the presentation of oral argument.
- (2) The commission's orders shall be in writing and shall be issued as soon as practicable after the record has been submitted for consideration.
- (3) Every order of the commission shall be served by mailing a certified copy, with postage prepaid, to all parties of record.
- (4) The commission may, at its discretion, issue a preliminary order and allow parties to provide responses to the preliminary order. Responses to a preliminary order shall be limited to five (5) pages and shall be due five (5) days after the date the preliminary order is issued, unless otherwise ordered by the commission. The commission may then issue its order after reviewing the responses of the parties.
- (5) As technology permits, and where the parties have provided their electronic mail address, the commission will attempt to issue an electronic copy of each order.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-127 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.160 Rehearings or Reconsideration.** This rule prescribed the procedure for requesting a rehearing of a final order of the commission and the disposition of that request.

*PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.*

*AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-128 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.160 Rehearing and Reconsideration**

*PURPOSE: This rule prescribes the procedure for requesting a rehearing of a final order or a reconsideration of a procedural or interlocutory order of the commission and the disposition of that request.*

- (1) Applications for rehearing may be filed prior to the effective date of the final order entered in a contested case. Motions for reconsideration of procedural and interlocutory orders shall be filed within ten (10) days of the date the order is issued, unless otherwise ordered by the commission. Both applications for rehearings and motions for reconsideration shall set forth specifically the ground(s) on which the applicant considers the order to be unlawful, unjust or unreasonable.
- (2) The filing of an application for rehearing or motion for reconsideration shall not excuse any party from complying with any order of the commission, nor operate in any manner to stay or postpone the enforcement of any order, unless otherwise ordered by the commission.
- (3) The commission shall grant a rehearing or reconsider the order if in its judgment there is sufficient reason to do so. The commission may rehear or reconsider an entire order or any issue within an order. The commission may base a rehearing or reconsideration on the existing record or may require or allow additional evidence, pleadings or briefs.
- (4) The commission, after a rehearing or reconsideration of the evidence, pleadings or briefs, including any additional evidence, pleadings or briefs received since the issuance of the order, may affirm, rescind, or modify the order.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*



*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-128 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.170 Forms.** This rule provided examples of the form and contents of certain types of common filings.

*PURPOSE: This rule is being rescinded to avoid confusion because of changes.*

*AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. [24] 29, 1975. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-129 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.180 Rulemaking.** This rule provided a procedure for rulemaking, and petitioning for rulemaking, pursuant to Chapter 536, RSMo.

*PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.*

*AUTHORITY: sections 386.040, 386.250, 386.310, 386.410, 387.050, 387.160, 387.170, 387.230, 387.240, 387.290, 387.310, 387.320, 387.330, 389.580, 389.710, 389.795, 389.945, 389.992, 389.993, 390.041, 390.126, 390.136, 390.138, 392.200, 392.210, 392.220, 392.240, 392.280, 392.290, 392.330, 393.110, 393.140(3), (4), (6), (9), (11) and (12), 393.160, 393.220, 393.240, 393.290 and 394.160, RSMo 1994. Original rule filed April 26, 1976, effective Sept. 11, 1976. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-130 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.180 Rulemaking**

*PURPOSE: This rule provides a procedure for rulemaking, and petitioning for rulemaking, pursuant to Chapter 536, RSMo.*

(1) Promulgation, amendment, or rescission of rules adopted by the commission in Division 240 of Title 4 may be proposed, adopted, and published by approval of the commission as provided by law.

(2) Promulgation, amendment, or rescission of rules may be instituted by the commission through an internally-generated rulemaking case, or pursuant to a rulemaking petition filed with the commission.

(3) Petitions for promulgation, amendment or rescission of rules shall be as follows:

(A) Each petition for promulgation, amendment, or rescission of rules made pursuant to Chapter 536, RSMo, shall be filed with the secretary of the commission in writing and shall include:

1. The name, street address, and mailing address of the petitioner;

2. One (1) of the following:

A. The full text of the rule sought to be promulgated, if no rule on the subject currently exists;

B. The full text of the rule sought to be amended, including the suggested amendments, if amendment of an existing rule is sought;

C. The full text of the existing rule and the full text of the rule proposed to replace the existing rule, if the proposed changes to the existing rule are so substantial as to make replacement of the existing rule more efficient than amendment thereof; or

D. The full text of the rule sought to be rescinded, if rescission of an existing rule is sought;

3. A statement of petitioner's reasons in support of the promulgation, amendment, or rescission of the rule, including a statement of all facts pertinent to petitioner's interest in the matter;

4. Citations of legal authority which authorize, support, or require the rulemaking action requested by the petition;

5. An estimation of the effect of the rulemaking on private persons or entities with respect to required expenditures of money or reductions in income, sufficient to form the basis of a fiscal note as required under Chapter 536, RSMo; and

6. A verification of the petition by the petitioner by oath; and

(B) The commission shall either deny the petition in writing, stating the reasons for its decision, or shall initiate rulemaking in accordance with Chapter 536, RSMo.

(4) When the commission decides to promulgate, amend, or rescind a rule, it shall issue a notice of proposed rulemaking for the secretary of state to publish in the *Missouri Register*. The notice of proposed rulemaking shall contain the following:

(A) Instructions for the submission of written comments by anyone wishing to file a statement in support of or in opposition to the proposed rulemaking, by a specific date which shall not be fewer than thirty (30) days after the publication date; or

(B) Instructions and notice for both a written comment period and hearing.

(5) Persons wishing to file comments or testify at the hearing need not be represented by counsel, but may be so represented if they choose.

(6) Hearings on rulemakings may be for commissioner questions or for the taking of initial or reply comments.

(7) Hearings for the taking of initial or reply comments on rulemakings shall proceed as follows:

(A) A commissioner or presiding officer shall conduct the hearing, which shall be transcribed by a reporter;

(B) Persons wishing to testify shall be sworn by oath;

(C) Persons testifying may give a statement in support of or in opposition to a proposed rulemaking. The commissioners or the presiding officer may question those persons testifying;

(D) Statements shall first be taken from those supporting a proposed rule, followed by statements from those opposing the rule, unless otherwise directed by the presiding officer; and

(E) Persons testifying may offer exhibits in support of their positions.

(8) Within ninety (90) days after the end of a written comment period or the end of a hearing on a rulemaking, the commission shall issue an order of rulemaking which shall be published in the *Missouri Register* by the secretary of state. The order of rulemaking shall briefly summarize the general nature of the comments or statements made during the comment period or hearing, shall contain the findings required by Chapter 536, RSMo and shall either—

(A) Adopt the proposed rule or proposed amendment as set forth in the notice of proposed rulemaking without further change;

(B) Adopt the proposed rule or proposed amendment with further changes;

(C) Adopt the proposed rescission of the existing rule; or

(D) Withdraw the proposed rule.

*AUTHORITY: sections 386.040, 392.210, 392.240, 392.280, 392.290, 393.110, 393.140(3), (4), (6), (9), (11) and (12), 393.160, 393.220, 393.240, 393.290 and 394.160, RSMo 1994 and 386.250, 386.310, 386.410, 392.200, 392.220 and 392.330, RSMo Supp. 1998. Original rule filed April 26, 1976, effective Sept. 11, 1976. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be consid-*

*ered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-130 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RESCISSION**

**4 CSR 240-2.200 Small Company Rate Increase Procedure.**  
This rule provided procedures for small water, sewer and gas utilities to obtain rate increases.

*PURPOSE: This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.*

*AUTHORITY: section 386.410, RSMo 1994. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed: Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rescission will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-131 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

**PROPOSED RULE**

**4 CSR 240-2.200 Small Company Rate Increase Procedure**

*PURPOSE: This rule provides procedures for small water, sewer and gas utilities to obtain rate increases.*

(1) Small companies, as defined in this rule, may seek a general increase in revenues through a small company rate case by filing a letter requesting the change. The request shall not be accompanied by any tariff sheets. For the purpose of this rule, small companies qualifying to use the small company rate case described in this rule shall include water and sewer utilities having eight thousand (8,000) or fewer customers and gas utilities having three thousand (3,000) or fewer customers. The small company rate case shall be conducted as follows:

(A) The original letter requesting the change shall be filed with the secretary of the commission and one (1) copy shall be furnished to the public counsel. The letter shall state the amount of the additional revenue requested, the reason(s) for the proposed change and a statement that all commission annual assessments have been paid in full or are being paid under an installment plan. The letter should also include a statement that the company's current annual report is on file with the commission. The company, in writing, shall notify customers of the request for additional

revenue and the effect on the typical residential customer's bill. The notice shall indicate that customers' responses may be sent to the appropriate commission department or the public counsel within thirty (30) days of the date shown on the notice. A draft copy of the notice shall be sent to the appropriate commission department for verification of the accuracy of the notice before being sent to the company's customers. A copy of the final notice shall then be sent to the appropriate commission department and the public counsel. The commission staff and the public counsel shall exchange copies of customer responses upon their receipt. Upon receipt of the company's request, the commission staff shall schedule an investigation of the company's operations and an audit of its financial records. When the investigation and audit are complete, the commission staff shall notify the company and public counsel whether the requested additional revenue is recommended in whole or in part, of the rate design proposal for the increase, and of any recommended operational changes. If public counsel wishes to conduct an investigation and audit of the company, it must do so within the same time period as staff's investigation and audit;

(B) The commission staff, within twenty-one (21) days from the completion of its investigation, shall arrange a conference with the company and shall notify the public counsel of the conference prior to the conference, in order to provide the public counsel an opportunity to participate;

(C) If the conference between the commission staff, the company and the public counsel results in an agreement concerning additional revenue requirements and any other matters pertaining to the company's operations, including responses to customer concerns, the agreement between the commission staff, the company and the public counsel shall be reduced to writing. The company may then file tariff sheet(s) with an effective date which is not fewer than thirty (30) days after the tariff's issue date and no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. The company shall file a copy of the agreement with its tariff;

(D) If the conference results in an agreement between the commission staff and the company only, the company at this time shall file the necessary tariff sheet(s) with the commission in accordance with the agreement. The tariff sheet(s) shall contain an effective date of not fewer than forty-five (45) days from the issue date. The company shall notify customers in writing of the proposed rates resulting from the agreement. The notice shall indicate that customers' responses may be sent to the appropriate commission department or the public counsel within twenty (20) days of the date shown on the notice. A copy of the notice shall be sent to the secretary of the commission and the public counsel. The commission staff and the public counsel shall exchange copies of the customer responses upon their receipt. The public counsel shall file a pleading indicating its agreement or disagreement with the tariff sheet(s) within twenty-five (25) days of the date the tariff sheet(s) is filed, unless a public hearing is requested;

(E) A request for a local public hearing may be filed after the tariff sheet(s) is filed by the company. The request shall be filed within twenty (20) days of the filing of the tariff sheet(s) by the company. Public counsel shall file a pleading indicating agreement or disagreement with the tariff sheet(s) within seven (7) days after the local public hearing;

(F) An agreement must be reached and tariff sheet(s) filed based upon the agreement within one hundred fifty (150) days from the date the letter initiating the case is filed. This time period may be extended with the consent of the company. Written consent for an extension shall be filed with the company's tariff; and

(G) If no agreement can be reached between the commission staff and the company, the company may initiate a standard rate case.

*AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule will not cost private entities more than \$500 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. AX-2000-131 and be filed with an original and fourteen copies. No public hearing is scheduled.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 18—Safety Standards**

**PROPOSED AMENDMENT**

**4 CSR 240-18.010 Safety Standards—Electric and Telephone Utilities and Rural Electric Cooperatives.** The commission is amending section (1).

*PURPOSE: This amendment provides for the adoption and incorporation by reference of the most recent edition of the American National Standard, National Electrical Safety Code (NESC) as approved by the American National Standards Institute on June 6, 1996.*

*PUBLISHER'S NOTE: The publication of the full text of the material that the adopting agency has incorporated by reference in this rule would be unduly cumbersome or expensive. Therefore, the full text of that material will be made available to any interested person at both the Office of the Secretary of State and the office of the adopting agency, pursuant to section 536.031.4, RSMo. Such material will be provided at the cost established by state law.*

(1) The commission adopts as its rule and incorporates by reference, **Parts 1, 2 and 3 and Sections 1, 2 and 9 of the American National Standard, National Electric Safety Code (NESC); [1993] 1997 Edition** as approved by the American National Standards Institute on [July 10, 1992] **June 6, 1996.** [It] **The NESC** is published by the Institute of Electrical and Electronics Engineers, Inc., as the minimum safety standards relating to operation of electric and telephone utilities and rural electric cooperatives. The NESC is composed of four (4) different parts and four (4) sections, each of which pertain to different aspects of the electric and telecommunications industries. [The commission adopts **Parts 1, 2 and 3 and Sections 1, 2 and 9.**] Part 1 specifies rules for the installation and maintenance of equipment normally found in electric generating plants and substations. Part 2 pertains to safety rules for overhead electric and communication lines. Part 3 contains safety rules for underground electric and communication lines. Section 1 is an introduction to the NESC, Section 2 defines special terms and Section 9 requires certain grounding methods for electric and communications facilities.

*AUTHORITY: sections 386.310, RSMo [Cum. Supp. 1989] Supp. 1998 and 394.160, RSMo [1986] 1994. Original rule filed March 15, 1978, effective Oct. 2, 1978. Amended: Filed April 8, 1981, effective Oct. 15, 1981. Amended: Filed Feb. 9, 1984, effective June 15, 1984. Amended: Filed June 12, 1987, effective Sept.*

15, 1987. Amended: Filed Jan. 5, 1990, effective April 13, 1990. Amended: Filed March 23, 1993, effective Oct. 10, 1993. Amended: Filed Aug. 27, 1999.

**PUBLIC ENTITY COST:** This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

**PRIVATE ENTITY COST:** This proposed amendment will not cost private entities more than \$500 in the aggregate.

**NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. OX-2000-175, and be filed with an original and fourteen copies. A public hearing is scheduled for November 3, 1999, at 9:00 a.m. in room 530 of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and 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 days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 32—Telecommunications Service**

**PROPOSED RULE**

**4 CSR 240-32.110 Surety Bonding Requirements for Basic Local Telecommunications Companies**

**PURPOSE:** This rule establishes surety bonding requirements to be observed by basic local telecommunications service providers to ensure financial obligations to end-users and other telecommunications service providers.

(1) To ensure the protection of the basic local telecommunication service company end-users and other telecommunications service providers, any basic local telecommunications service company with less than a two hundred fifty thousand dollar (\$250,000) net book value in telephone plant and/or telephone facilities located in Missouri shall maintain a third-party surety bond (bond) or other mechanism as may be approved by the commission, as set forth in this subsection.

(A) The bond shall be one hundred thousand dollars (\$100,000). The company shall submit proof of bond or proof of being exempt from a bonding requirement. Such proof shall be contained in an application to provide basic local telecommunications services and in each annual report or in some other manner as agreed upon by the commission.

(B) The bond shall be maintained as long as the telecommunications service provider is furnishing basic local telecommunications service in the state of Missouri pursuant to this chapter unless modified or released pursuant to commission order.

(C) The company shall ensure that the issuer of the bond notifies the commission when the bond is canceled or otherwise terminates prematurely.

(D) The company shall maintain records that identify by customer name, address and telephone number the dollar amount of a customer's prepaid basic local telecommunications services and

any held deposits. Records should also be maintained regarding any amounts owed to other telecommunications providers. Such records shall be available to the commission, upon request.

(E) The bond should be structured so that if a bond is levied it shall reimburse parties in the following priority: prepaid basic local telecommunications services and deposits of end-users, costs associated with providing end-users with uninterrupted service from the carrier-of-last-resort should the company cease operations, and any debt obligations to other telecommunications service providers.

(2) Upon application to the commission, the bonding requirement mandated under section (1) shall be waived if the company successfully complies with the bonding requirement for a period of three (3) consecutive years.

**AUTHORITY:** sections 386.040 RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Aug. 24, 1999.

**PUBLIC ENTITY COST:** This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

**PRIVATE ENTITY COST:** This proposed rule is estimated to cost private entities \$150,500 in the aggregate.

**NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING:** Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. TX-2000-158, and be filed with an original and fourteen copies. A public hearing is scheduled for November 2, 1999, at 9:00 a.m. in room 530 of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and 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 days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: Missouri Department of Economic Development  
 Division: Missouri Public Service Commission  
 Chapter: Telecommunications Companies  
 Type of Rulemaking: New Rule (Surety Bonding Requirement)  
 Rule Number and Name: 4 CSR 240-32.110

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
	Class A Local Telephone Companies	
	Class B Local Telephone Companies	
28	Class C Local Telephone Companies	\$150,500
28	All entities	\$150,500

\* Class A Telephone Companies are incumbent local telephone companies with more than \$100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with \$100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services.

**III. WORKSHEET**

1. A draft of the proposed rule was distributed to Class A Telephone Companies, Class B Telephone Companies, Class C Local Telephone Companies, Class Interexchange Companies, and Class Payphone Providers certificated by the Missouri Public Service Commission as of June 1998. These companies were requested to review the rule and provide any projected fiscal impact projections, should the rule be approved as drafted. The above figures reflects information provided by responding companies.

#### **IV. ASSUMPTIONS**

1. The life of the rule is estimated at five years.
2. Fiscal year 1998 dollars are used to estimate costs. No adjustment for inflation is applied.
3. Estimates assume no sudden change in technology that would influence costs.
4. Affected entities are assumed to be in compliance with all other Missouri Public Service Commission and Federal Communication Commission rules and regulations.
5. The universe of entities is based on December 15, 1998 data and is assumed to remain constant. The universe of Class C Telephone Company entities is based on the number of companies with a certificate, approved interconnection agreement, and an approved tariff to provide basic local telecommunications services.
6. All Class A and Class B Telephone Companies are assumed to have a net book value of at least \$250,000 and therefore do not require a surety bond.
7. All Class C Telephone Companies are assumed to have a net book value of less than \$250,000 and therefore require a surety bond.
8. Class C Telephone Companies are assumed to require a \$100,000 surety bond.
9. A \$100,000 surety bond is assumed to have an annual cost of \$1,075. This cost is based on information supplied by Iowa Network Services, the only company responding with surety bond costing information. Assumed annual cost is based on a 1% fee plus \$75.
10. Annual fiscal cost is based on 28 Class C Telephone Companies \* \$1,075 = \$30,100. Total fiscal impact is based on \$30,100 annual cost \* 5 years = \$150,500.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 32—Telecommunications Service**

**PROPOSED RULE**

**4 CSR 240-32.120 Snap-Back Requirements for Basic Local  
Telecommunications Companies**

*PURPOSE: This rule establishes provisions for ensuring that basic local telecommunications service customers receive uninterrupted service from the carrier-of-last-resort should the customer's basic local telecommunications service company cease operations.*

(1) To ensure uninterrupted service to basic local telecommunications service customers, a basic local exchange telecommunications company shall provide an immediate and orderly transition of its customers to the basic local service carrier(s)-of-last-resort in the event the company ceases operation or otherwise terminates service to the end-user customer for any reason other than cause as provided for in its tariffs and approved by the commission.

(2) If a basic local telecommunications service company serving a customer through unbundled network elements or resale of the carrier-of-last-resort's services ceases service, it shall immediately provide the carrier-of-last-resort all relevant information to ensure that the end-user customer will not experience a service outage except where the carrier-of-last-resort's tariff would not require service to that customer. The customer's intraLATA and/or interLATA carrier of choice will be continued if available. If it is not available, the carrier-of-last-resort will provide access to any carrier it selects until the customer notifies the carrier-of-last-resort in writing of a new carrier selection.

(3) The carrier-of-last-resort will immediately accept the customers of a basic local telecommunications service company providing service through resale or unbundled network elements of said carrier and provide the end-user identical or equivalent service as that service is offered to its own customers in that exchange. The service supplied will be provided according to the carrier-of-last-resort's approved tariff.

(4) The customer will be notified by the carrier of last resort of the change of service provider, the applicable rates that will be charged the customer, and that the customer has thirty days to make a choice of a preferred service provider. Such notice will be no later than the carrier-of-last-resort's initial bill to the affected customer. Within thirty days after transfer of a customer, said customer must make an affirmative choice to stay with the new carrier or select another carrier. If no choice is made, the current carrier may terminate service consistent with its existing tariff.

(5) If a basic local telecommunications service company serving a customer exclusively through the use of its own facilities, ceases service, it shall immediately provide the carrier-of-last-resort all relevant information to insure that the end-user customer will not experience a service outage and provide sufficient access to its network and facilities to accomplish an orderly and speedy transfer of service with minimal inconvenience and service disruption to the end-user customer.

(6) A carrier-of-last-resort providing customer service under conditions of this section shall notify the commission within five (5) days of the local exchange company, number and class of customer access lines, length of any service outage and any charges that the end-user customer may have incurred.

*AUTHORITY: sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Aug 24, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule is estimated to cost private entities \$58,800 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 1, 1999. Comments should refer to Case No. TX-2000-160, and be filed with an original and fourteen copies. A public hearing is scheduled for November 4, 1999, at 9:00 a.m. in room 530 of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and 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 days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.*

**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: Missouri Department of Economic Development  
Division: Missouri Public Service Commission  
Chapter: Telecommunications Companies  
Type of Rulemaking: New Rule (Snap-Back Requirement)  
Rule Number and Name: 4 CSR 240-32.120

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
3	Class A Local Telephone Companies	\$58,800
	Class B Local Telephone Companies	
	Class C Local Telephone Companies	
3	All entities	\$58,800

\* Class A Telephone Companies are incumbent local telephone companies with more than \$100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with \$100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services.

**III. WORKSHEET**

1. A draft of the proposed rule was distributed to Class A Telephone Companies, Class B Telephone Companies, Class C Local Telephone Companies, Class Interexchange Companies, and Class Payphone Providers certificated by the Missouri Public Service Commission as of June 1998. These companies were requested to review the rule and provide any projected fiscal impact projections, should the rule be approved as drafted. The above figures reflects information provided by responding companies.



#### IV. ASSUMPTIONS

1. The life of the rule is estimated at five years.
2. Fiscal year 1998 dollars are used to estimate costs. No adjustment for inflation is applied.
3. Estimates assume no sudden change in technology that would influence costs.
4. Affected entities are assumed to be in compliance with all other Missouri Public Service Commission and Federal Communication Commission rules and regulations.
5. The universe of entities is based on December 15, 1998 data and is assumed to remain constant.
6. Incumbent telecommunications companies are assumed to be the carrier of last resort. Affected entities are assumed to be those incumbent telecommunications companies where other providers are currently authorized to offer basic local telecommunications service. As of December 1998 other providers are authorized to provide such services in the territories of only three incumbent telecommunications providers.
7. Assumed cost is based on figures supplied by Southwestern Bell, the only company submitting specific cost estimates, for a \$5 conversion order.
8. The annual number of conversion orders is assumed to be 5% of the current number lines served by Class C Telephone Companies as of December 15, 1998. Current number of lines served by Class C Telephone Companies is 47,049 lines. Annual conversion orders is  $47,049 * 5\% = 2,352$  orders.
9. Annual cost is assumed to be  $\$5 * 2,352$  orders = \$11,760. Assumed cost over the life of the rule is assumed to be  $\$11,760 * 5$  years = \$58,800.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 33—Service and Billing Practices  
for Telephone Utilities**

**PROPOSED RESCISSION**

**4 CSR 240-33.010 General Provisions.** This rule described in general terms the provisions of this chapter.

*PURPOSE:* This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

*AUTHORITY:* sections 386.040, 386.250 and 392.200, RSMo 1986. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded: Filed Aug. 26, 1999.

*PUBLIC ENTITY COST:* This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rescission will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-159, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

*SPECIAL NEEDS:* Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 33—Service and Billing Practices for  
[Telephone Utilities] Telecommunications Companies**

**PROPOSED RULE**

**4 CSR 240-33.010 General Provisions**

*PURPOSE:* This rule describes in general terms the provisions of this chapter.

(1) This chapter applies to all telecommunications companies subject to the jurisdiction of the Missouri Public Service Commission.

(2) A telecommunications company shall not discriminate against a customer or prospective customer for exercising any right granted by this chapter.

(3) A telecommunications company may adopt rules governing its relations with customers and prospective customers which are not inconsistent with this chapter. The rules shall be part of a telecommunications company's tariffs.

(4) All telecommunications companies shall be in compliance with this chapter within six (6) months after the effective date of this rule and shall notify the commission of such compliance.

*AUTHORITY:* sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999.

*PUBLIC ENTITY COST:* This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rule will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING:* Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-159, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

*SPECIAL NEEDS:* Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 33—Service and Billing Practices  
for Telephone Utilities**

**PROPOSED RESCISSION**

**4 CSR 240-33.020 Definitions.** This rule defined various terms that were used in this chapter.

*PURPOSE:* This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

*AUTHORITY:* sections 386.040, 386.250 and 392.200, RSMo 1986. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded: Filed Aug. 26, 1999.

*PUBLIC ENTITY COST:* This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rescission will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING:* Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-162, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the

*Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.*

*SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.*

#### **Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

##### **Division 240—Public Service Commission Chapter 33—Service and Billing Practices for [Telephone Utilities] Telecommunications Companies**

#### **PROPOSED RULE**

#### **4 CSR 240-33.020 Definitions**

*PURPOSE: This rule defines various terms that are used in this chapter.*

(1) Advance payment is money received by a telecommunications company from a customer for the purpose of securing payment of future charges accrued by a customer.

(2) Basic local telecommunications service is basic local telecommunications service as defined in section 386.020(4), RSMo, Supp. 1998.

(3) Bill is a written or electronic demand for payment for service or equipment and the taxes, assessments, and franchise fees related thereto.

(4) Bill insert or insert is a written notice which is enclosed with a bill.

(5) Billing period is a normal usage period of not less than twenty-eight (28) nor more than thirty-one (31) days.

(6) Complaint is a complaint as defined in 4 CSR 240-2.070.

(7) Customer is any individual, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., that accepts financial and other responsibilities in exchange for telecommunications service.

(8) Delinquent account is an account which has undisputed charges that are not paid in full by the due date.

(9) Deposit is a money advance to a telecommunications company for the purpose of securing payment of delinquent charges.

(10) Discontinuance of service or discontinuance is a cessation of service not requested by a customer.

(11) Guarantee is a written promise from a responsible party to assume liability.

(12) In dispute is any matter regarding a charge or service which is the subject of an unresolved inquiry.

(13) Inquiry is any written or oral comment or question regarding a charge or service.

(14) Letter of agency is a letter or other document sent by a customer to a telecommunications company authorizing the telecom-

munications company to change the telecommunications service provider for that customer.

(15) Access line is the line associated with each service location to which a unique telephone number is assigned.

(16) New customer is any customer who has no prior credit history with the telecommunications company with whom service is being requested.

(17) Operator services is operator services as defined in section 386.020(37), RSMo Supp. 1998.

(18) Pay telephone is a coin or non-coin telephone installed for use by the general public from which calls can be paid for at the time they are made by means of coins, tokens, credit cards, debit cards or a billing to an alternate number.

(19) Preferred payment date plan is a plan in which the due date for the charges stated on a bill is the same date in each billing period as selected by the customer.

(20) Rendition of a bill is the date a bill is mailed to a customer.

(21) Settlement agreement is a written agreement between a customer and a telecommunications company to resolve billing disputes or delinquent payments.

(22) Tariff is a statement by a communications company that sets forth the services offered by that company, and the rates, terms and conditions for the use of those services.

(23) Telecommunications company is a telephone corporation as defined in section 386.020(51), RSMo Supp. 1998.

(24) Termination of service or termination is a cessation of service requested by a customer.

*AUTHORITY: sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed Aug. 26, 1999.*

*PUBLIC ENTITY COST: This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.*

*PRIVATE ENTITY COST: This proposed rule is estimated to cost private entities \$10,487,054 in the aggregate.*

*NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-162, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.*

*SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.*

**FISCAL NOTE  
 PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 4 – Department of Economic Development

Division: 240 – Public Service Commission

Chapter: 33 – Service and Billing Practices for Telecommunications Companies

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 240-33.020 Definitions

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
1	Class A Local Telephone Companies	\$10,487,054 (See worksheet Item 1A)
	Class B Local Telephone Companies	
	Class C Local Telephone Companies	
	Class Interexchange Companies	
	Class Payphone Providers	
1	All entities	\$10,487,054

\* Class A Telephone Companies are incumbent local telephone companies with more than \$100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with \$100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers; Class Payphone Providers are private payphone providers.

**III. WORKSHEET**

1. A draft of the proposed rule was distributed to Class A Telephone Companies, Class B Telephone Companies, Class C Local Telephone Companies, Class Interexchange Companies, and Class Payphone Providers certificated by the Missouri Public Service

Commission as of June 1998. These companies were requested to review the rule and provide any projected fiscal impact projections, should the rule be approved as drafted. The above information reflects the responses of these companies.

- A. Southwestern Bell Telephone Company stated that the total impact would be \$10,487,054 because the billing insert that would be required to inform customers about changes in the appearance of the bill would cause customer confusion and, therefore, increased calls to its business office.
2. The estimated number of entities affected by the proposed rule reflects the number of companies responding with fiscal impact information.
3. Cost of compliance with the rule by the affected entities reflects the total projected cost over a five year period. Some entities indicated their actual cost may be greater than the amount projected.

#### IV. ASSUMPTIONS

1. The life of the rule is estimated at five years.
2. Fiscal year 1998 dollars are used to estimate costs. No adjustment for inflation is applied.
3. Estimates assume no sudden change in technology that would influence costs.
4. Affected entities are assumed to be in compliance with all other MoPSC rules and regulations.
5. The universe of entities is based on fiscal year 1998 data and is assumed to remain constant.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

**Division 240—Public Service Commission  
Chapter 33—Service and Billing Practices  
for Telephone Utilities**

**PROPOSED RESCISSION**

**4 CSR 240-33.040 Billing and Payment Standards.** This rule established billing and payment standards to be observed by telephone utilities and customers in resolving questions regarding these matters so that reasonable and uniform standards existed for billing and payment practices for all telephone utilities.

*PURPOSE:* This rule is being rescinded and resubmitted to avoid confusion because of the many changes being proposed.

*AUTHORITY:* section 386.250(11), RSMo 1986. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Amended: Filed Dec. 31, 1979, effective Sept. 2, 1980. Rescinded: Filed Aug. 26, 1999.

*PUBLIC ENTITY COST:* This proposed rescission will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rescission will not cost private entities more than \$500 in the aggregate.

**NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING:** Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-163, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.

*SPECIAL NEEDS:* Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

**Division 240—Public Service Commission  
Chapter 33—Service and Billing Practices for  
[Telephone Utilities] Telecommunications Companies**

**PROPOSED RULE**

**4 CSR 240-33.040 Billing and Payment Standards for Residential Customers**

*PURPOSE:* This rule establishes billing and payment standards to be observed by telecommunications companies and residential customers in resolving questions regarding these matters so that reasonable and uniform standards exist for billing and payment practices for all telecommunications companies.

(1) A telecommunications company, after the initial bill for new service is rendered, shall render a bill during each billing period except when the bill has a "00" balance.

(2) A telecommunications company may render bills on a cyclical basis if a customer receives the bill on or about the same day of each month.

(3) If a telecommunications company does not expressly offer a preferred payment date plan, a customer shall have at least twenty-one (21) days from the rendition of a bill to pay the charges stated. If the charges remain unpaid for twenty-one (21) days from rendition of the bill such charges will be deemed delinquent.

(4) If a telecommunications company has a preferred payment date plan which it has expressly offered to all its customers, the charges are due on or before the due date under the plan. Charges not paid by the due date may be deemed delinquent.

(5) A telecommunications company may assess a penalty charge upon a delinquent account. Such charge shall be specifically stated in the company's tariff.

(6) Every bill shall clearly state—

(A) The number of main stations for which charges are stated;

(B) The beginning or ending dates of the billing period for which charges are stated;

(C) A statement of the date the bill becomes delinquent if not paid;

(D) Penalty fees and advance payments, if any;

(E) The unpaid balance, if any;

(F) The amount due for basic service and an itemization of the amount due for all other regulated or nonregulated services including the date and duration (in minutes or seconds) of each toll call;

(G) An itemization of the amount due for taxes, franchise fees and other fees and/or surcharges which the telecommunications company, pursuant to its tariffs, bills to customers;

(H) The total amount due;

(I) The toll free telephone number(s) where inquiries and/or dispute resolutions may be made;

(J) The amount of any deposit and/or advance payments held by the company and the interest accrual rate;

(K) The amount of any deposit and/or interest accrued on a deposit which has been credited to the charges stated; and

(L) Any other credits and charges applied to the account during the current billing period.

*AUTHORITY:* sections 386.040, RSMo 1994 and 386.250 and 392.200, RSMo Supp. 1998. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Amended: Filed Dec. 31, 1979, effective Sept. 2, 1980. Rescinded and readopted: Filed Aug. 26, 1999.

*PUBLIC ENTITY COST:* This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

*PRIVATE ENTITY COST:* This proposed rule is estimated to cost private entities \$13,000,900 in the aggregate.

**NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING:** Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments shall be filed on or before November 12, 1999. Comments should refer to Case No. TX-2000-163, and be filed with an original and fourteen copies. A public hearing is scheduled for November 15, 1999, at 9:00 a.m. in room 520B of the Harry S

*Truman State Office Building, 301 West High Street, Jefferson City, Missouri, for interested persons to appear and respond to commission questions.*

*SPECIAL NEEDS: Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.*

**FISCAL NOTE  
 PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: 4 – Department of Economic Development

Division: 240 – Public Service Commission

Chapter: 33 – Service and Billing Practices for Telecommunications Companies

Type of Rulemaking: Proposed Rule

Rule Number and Name: 4 CSR 240-33.040 Billing and Payment Standards for Residential Customers

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
3	Class A Local Telephone Companies	\$13,000,000 (See worksheet Item 1A)
2	Class B Local Telephone Companies	\$900 (See worksheet Item 1B)
	Class C Local Telephone Companies	
	Class Interexchange Companies	
	Class Payphone Providers	
5	All entities	\$13,000,900

\* Class A Telephone Companies are incumbent local telephone companies with more than \$100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with \$100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers; Class Payphone Providers are private payphone providers.



### III. WORKSHEET

1. A draft of the proposed rule was distributed to Class A Telephone Companies, Class B Telephone Companies, Class C Local Telephone Companies, Class Interexchange Companies, and Class Payphone Providers certificated by the Missouri Public Service Commission as of June 1998. These companies were requested to review the rule and provide any projected fiscal impact projections, should the rule be approved as drafted. The above information reflects the responses of these companies.

A. Class A Telephone Companies

- i. SWBT estimated that this rule would cost it \$3 million in one-time expenses and \$2 million in annual recurring expenses (\$13 million for five years) because the rule requires disaggregation of local and toll charges on a bill.

B. Class B Telephone Companies

- i. Farber Telephone Company estimates that adding deposit and interest rate to bills would cost \$500.
- ii. Kingdom Telephone Company estimates \$400 to show the deposit interest rate on monthly bills.

2. The estimated number of entities affected by the proposed rule reflects the number of companies responding with fiscal impact information.

3. Cost of compliance with the rule by the affected entities reflects the total projected cost over a five year period for those companies who have responded with projected fiscal impact information. Some entities indicated their actual cost may be greater than the amount projected.

### IV. ASSUMPTIONS

1. The life of the rule is estimated at five years.

2. Fiscal year 1998 dollars are used to estimate costs. No adjustment for inflation is applied.

3. Estimates assume no sudden change in technology that would influence costs.

4. Affected entities are assumed to be in compliance with all other MoPSC rules and regulations.

5. The universe of entities is based on fiscal year 1998 data and is assumed to remain constant.

6. Accrued interest does not have to be stated on the bill monthly.