

**Jason Kander**

Secretary of State  
Administrative Rules Division

**RULE TRANSMITTAL**

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SECRETARY OF STATE  
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-4.020

**COPY**

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

Name of person to call with questions about this rule:

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

Email address morris.woodruff@psc.mo.gov

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

Email address christine.koenigsfeld@psc.mo.gov

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

**TYPE OF RULEMAKING ACTION TO BE TAKEN**

- ☐ Emergency rulemaking, include effective date  
☒ Proposed Rulemaking  
☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration  
☐ Request for Non-Substantive Change  
☐ Statement of Actual Cost  
☐ Order of Rulemaking

Effective Date for the Order \_\_\_\_\_

☐ Statutory 30 days OR Specific date \_\_\_\_\_

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

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

Small Business Regulatory  
Fairness Board (DED) Stamp

SMALL BUSINESS  
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

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ADMINISTRATIVE RULES



Commissioners  
DANIEL Y. HALL  
Chairman  
STEPHEN M. STOLL  
WILLIAM P. KENNEY  
SCOTT T. RUPP  
MAIDA J. COLEMAN

## *Missouri Public Service Commission*

POST OFFICE BOX 360  
JEFFERSON CITY, MISSOURI 65102  
573-751-3234  
573-751-1847 (Fax Number)  
<http://www.psc.mo.gov>

SHELLEY BRUEGGEMANN  
General Counsel  
MORRIS WOODRUFF  
Secretary  
WESS A. HENDERSON  
Director of Administration  
NATELLE DIETRICH  
Staff Director

November 28, 2016

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

Re: 4 CSR 240-4.020 Ex Parte Communications

Dear Secretary Kander,

### CERTIFICATION OF ADMINISTRATIVE RULE

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

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

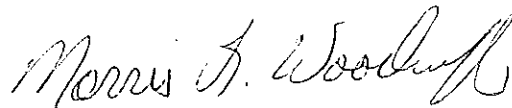
The Public Service Commission has determined and hereby also certifies that this proposed amendment complies with the small business requirements of 1.310, RSMo, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it is necessary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

Mr. Jason Kander  
November 28, 2016  
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Statutory Authority: section 386.410, RSMo 2000.

If there are any questions regarding the content of this proposed amendment, please contact:

Michael Bushmann, Senior Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street  
P.O. Box 360  
Jefferson City, MO 65102  
(573) 751-4393  
Michael.Bushmann@psc.mo.gov

A handwritten signature in black ink, reading "Morris L. Woodruff". The signature is written in a cursive style with a large, stylized "M" and "W".

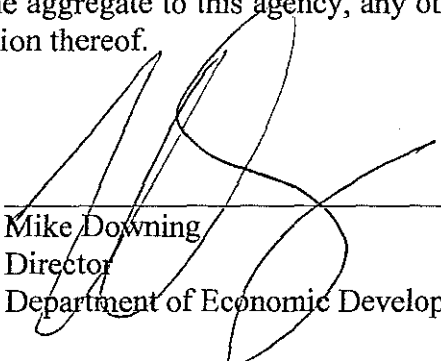
Morris L. Woodruff  
Chief Regulatory Law Judge

Enclosures

**AFFIDAVIT  
PUBLIC COST**

STATE OF MISSOURI )  
                                  )  
COUNTY OF COLE     )

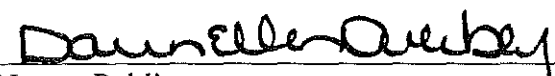
I, Mike Downing, Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed rule, 4 CSR 240-4.020, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

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

Subscribed and sworn to before me this 8<sup>th</sup> day of Nov, 2016, I am  
commissioned as a notary public within the County of cole, State of  
Missouri, and my commission expires on Dec. 13, 2019



DAWN ELLEN OVERBEY  
My Commission Expires  
December 13, 2019  
Moniteau County  
Commission #15456865

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

Title 4—DEPARTMENT OF  
ECONOMIC DEVELOPMENT  
Division 240—Public Service  
Commission  
Chapter 4—Standards of Conduct

PROPOSED AMENDMENT

**4 CSR 240-4.020 Ex Parte Communications.**

*PURPOSE: To set forth the standards to promote the public trust in the commission with regard to pending filings and cases. This rule regulates communication between members of the office of the commission and parties regarding substantive issues.*

(1) Neither any party nor any member of the office of the commission shall initiate, participate in, or undertake, directly or indirectly, an ex parte communication.

(A) If such a communication occurs, the party and the member of the office of the commission involved in the communication should immediately make a reasonable effort to terminate the communication.

(2) A party or member of the office of the commission who initiates an ex parte communication shall within one (1) business day following such communication give notice of that communication as follows:

(A) If the communication is written, the initiating party shall file a copy of the written communication in the official case file for the discussed case; or

(B) If the communication is not written, the initiating party shall file a memorandum disclosing the communication in the official case file for each discussed case. The memorandum must contain a list of all participants in the communication; the date, time, location, and approximate duration of the communication; the means by which the communication took place; and a summary of the substance of the communication and not merely a listing of the subjects covered. Alternatively, a recording or transcription of the communication may be filed, as long as that recording or transcription indicates all participants and the date, time, location, approximate duration, and means of communication.

(3) If an ex parte communication occurs and the initiating party fails to file a notice in the manner set forth in subsection (2), any other party or member of the office of the commission involved in the communication, upon learning of the person's failure to file such notice, shall give notice of the ex parte communication in the manner set forth in subsections (2) as soon as practicable.

*AUTHORITY: section 386.410, RSMo 2000.\* Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed April 26, 1976, effective Sept. 11, 1976. Rescinded and readopted: Filed Nov. 4, 2009, effective July 30, 2010.*

*\*Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

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

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*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2017, and should include reference to Commission Case No. AX-2017-0128. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed amendment is scheduled for February 16, 2017, at 1:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*

## Small Business Regulator Fairness Board Small Business Impact Statement

Date: 10/27/2016

Rule Number: 4 CSR 240-4.020

Name of Agency Preparing Statement: Public Service Commission

Name of Person Preparing Statement: Michael Bushmann, Reg. Law Judge

Phone Number: 751-4393 Email: Michael.Bushmann@psc.mo.gov

Name of Person Approving Statement: Morris Woodruff, Secretary

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

None. There is little impact on small businesses other than a requirement to comply with this ethics rule.

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

Involvement of small businesses or entities regulated by the Commission was not necessary for the development of this proposed rule.

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

None.

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

Small businesses such as water and sewer companies, manufactured housing dealers and installers, and law firms will have to comply with this ethics rule. No adverse effect is anticipated.

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

None.

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

Small businesses such as water and sewer companies, manufactured housing dealers and installers, and law firms will have to comply with this ethics rule. No monetary cost or benefit is anticipated by the rule.

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

Yes \_\_\_\_ No XX

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

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