

**Robin Carnahan**  
Secretary of State  
Administrative Rules Division  
RULE TRANSMITTAL

Administrative Rules Stamp

RECEIVED

FEB 03 2005  
SECRETARY OF STATE  
ADMINISTRATIVE RULES

A "SEPARATE" rule transmittal sheet **MUST** be used for EACH individual rulemaking.

A. Rule Number 4 CSR 240-33.045

Diskette File Name Proposed 33.045

Name of person to call with questions about this rule:

Content Marc Poston Phone 573-751-8701 FAX 573-751-9285

E-mail address marc.poston@psc.mo.gov

Data entry Lesli Belt Phone 573-751-7499 FAX 573-751-9285

E-mail address lesli.belt@psc.mo.gov

Interagency mailing address GOB, 200 Madison Street, 8<sup>th</sup> Floor, Jefferson City

Statutory Authority 386.250

Current RSMo date 2004

Date filed with the Joint Committee on Administrative Rules Exempt per Sections

531e.024 and 534.037, RSMo 2000, & Executive Order No 97-97 (June 27, 1997)

B. CHECKLIST guide for rule packets:

☒ This transmittal completed

☐ Forms, number of pages       

☒ Cover letter

☒ Authority section with history of the rule

☒ Affidavit

☒ Public cost statement

☒ Small business impact statement

☒ Private cost statement

☒ Fiscal notes

☒ Hearing date       

C. RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination

**MUST** include effective date       

☒ Proposed Rulemaking (choose one) ☒ rule, ☐ amendment, or ☐ rescission

☐ Order of Rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination

**MUST** complete page 2 of this transmittal

☐ Withdrawal (choose one) ☐ rule, ☐ amendment, ☐ rescission or ☐ emergency)

☐ Rule action notice ☐ In addition ☐ Rule under consideration

D. SPECIFIC INSTRUCTIONS: Any additional information you may wish to provide to our staff       

Small Business Regulatory  
Fairness Board (SBRF) Stamp

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Small Business Regulatory  
Fairness Board

JCAR Stamp



Commissioners

JEFF DAVIS  
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

**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>

WESS A. HENDERSON  
Director, Utility Operations

ROBERT SCHALLENBERG  
Director, Utility Services

DALE HARDY ROBERTS  
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE  
General Counsel

February 3, 2005

Robin Carnahan  
Secretary of State  
Administrative Rules Division  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Carnahan,

**RE: 4 CSR 240-33.045 Requiring Clear Identification and Placement of Separately Identified Charges on Customer Bills.**

**CERTIFICATION OF ADMINISTRATIVE RULE**

I do hereby certify that the attached is an accurate and complete copy of the proposed rule lawfully submitted by the Missouri Public Service Commission on this 3<sup>rd</sup> day of February 2005.

The Missouri Public Service Commission has determined and hereby certifies that this proposed rule will not have an economic impact on small business. The Missouri Public Service Commission also certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to section 536.017, RSMo 2000 and that this proposed rule does not constitute a taking of real property under relevant state and federal law.

Statutory Authority: section 386.250, RSMo 2000

If there are any questions regarding the content of this order of rulemaking, please contact:

Marc Poston  
200 Madison  
Jefferson City, MO 65102  
Phone (573) 751-8701  
Email: [marc.poston@psc.mo.gov](mailto:marc.poston@psc.mo.gov)

Sincerely yours,

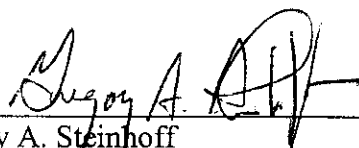
A handwritten signature in black ink, appearing to read "Dale Hardy Roberts", is written over a horizontal line.

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission

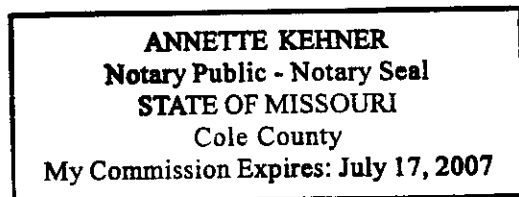
**AFFIDAVIT**  
(PUBLIC NO COST)

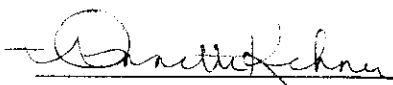
STATE OF MISSOURI     )  
                                  ) ss.  
COUNTY OF COLE     )

I, Gregory A. Steinhoff, 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 240-33.045 is less than five hundred dollars in the aggregate to this agency, and other agency of state government or any political subdivision thereof.

  
\_\_\_\_\_  
Gregory A. Steinhoff  
Director  
Department of Economic Development

Subscribed and sworn to before me this 2<sup>nd</sup> day of February, 2005. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on 17 July 2007.



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

FEB 20 2013  
11:00 AM

**Title 4 – DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 240 –Public Service Commission**

**Chapter 33—Service and Billing Practices  
for Telecommunications Companies**

**PROPOSED RULE**

**4 CSR 240-33.045 – Requiring Clear Identification and Placement of Separately Identified Charges on Customer Bills.**

*PURPOSE: This rule is intended to clarify items that may be separately identified on customer bills, provide guidance for labeling such items and require clear disclosure to customers of the total anticipated service charges for new services for which they contract.*

(1) All telecommunications companies shall provide a clear, full and meaningful disclosure of all monthly charges and usage sensitive rates at the time of the execution of a service agreement between the company and the customer or at the time the customer otherwise contracts with the company, but in any event prior to the date service is initiated. This disclosure shall be in addition to the itemized account of monthly charges during the customer's first billing period for the equipment and service for which the customer has contracted, as required by 4 CSR 240-33.040(8).

(2) Companies may not include on a customer's bill any fee or charge misrepresented as a governmentally mandated or authorized fee by:

(A) Disguising it;

(B) Naming, labeling or placing on the bill in a way that implies that it is governmentally mandated or authorized; or

(C) Giving it a name or label that is confusingly similar to the name or label of a governmentally mandated or authorized fee.

(3) Governmentally mandated or authorized fees and surcharges include, but are not limited to, separately identified charges to recover costs associated with any separate monthly charge mandated or authorized by federal, state or local government order, decision, ruling or mandate. These monthly charges or taxes shall be identified on the customer's bill in easy to understand terms and in a manner consistent with their purpose or applicability.

(4) Companies imposing separately identified charges that appear to be governmentally mandated or authorized fees shall provide, upon request by the Commission Staff, such federal, state or local government order, decision, ruling, mandate or other authority on which it relies in placing such a charge on the customer's bill. The presence of a charge in a currently effective tariff is not evidence, in and of itself, that the charge is authorized or mandated by the Commission

(5) Based on a complaint, the Commission may order removal or modification of any charge it finds does not comport with this rule. Nothing in this rule will preclude the Commission from suspending or rejecting company tariffs when similar or identical tariffs have been approved for other companies.

(6) This rule establishes minimum requirements for clarity in billing separately identified charges.

(7) Any company that serves as a billing agent for another entity shall not be held liable for any violation of this rule for that portion of the customer bill that relates to that other entity.

*AUTHORITY: sections 386.040, 386.250, 392.220, 392.240, 392.451, and 392.470 RSMo 2000; and 392.200 RSMo Supp. 2003. Original rule filed February 3, 2005.*

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

*PRIVATE COST: This proposed rule will cost private entities an estimated \$643,000 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 of the Commission, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publications of this notice in the Missouri Register and should include a reference to commission Case No. TX-2005-0258. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for May 11, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 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: Service and Billing Practices for Telecommunications Companies  
Type of Rulemaking: Proposed Rulemaking  
Rule Number and Name: 4 CSR 240-33.045 -- Requiring Clear Identification and Placement of Separately Identified Charges on Customer Bills.

**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:
4	Class A Local Telephone Companies	\$643,000 (see III 2 below)
37	Class B Local Telephone Companies	\$0
80	Class C Local Telephone Companies	\$0
500+	Class Interexchange Companies	\$0 (see III 3. below)
	All entities	\$643,000

\* 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.

### **III. WORKSHEET**

1. The proposed rule applies to all Classes of telecommunications companies certificated by the Missouri Public Service Commission. These companies have reviewed the proposed rule and have provided fiscal impact projections. The above information is based on those projections.
2. Three of the four Class A Local Telephone Companies indicate a fiscal impact. The impact is largely due to the customer disclosure requirement of the rule. Companies indicate it will be necessary to train customer service representatives in order for them to be able to explain all charges that may appear on the bill that are not Missouri-specific tariffed rates. For instance, having the knowledge to be able to disclose things such as taxes, which can vary by municipality would require significant training.
3. Interexchange companies indicated a potential fiscal impact of more than \$1.5 million if current tariffed rates are no longer recoverable under the provisions of the rule. An additional \$27,000 is estimated to modify billing tables for tariffed rates that may not be allowed under the new rule.

### **IV. ASSUMPTIONS**

1. Fiscal year 2004 dollars were used to estimate costs. No adjustment for inflation is applied.
2. Estimates assume no sudden change in technology that would influence costs.
3. Affected entities are assumed to be in compliance with all other Missouri Public Service Commission rules and regulations.

## MEMORANDUM

**TO:** Dale Hardy Roberts, Secretary

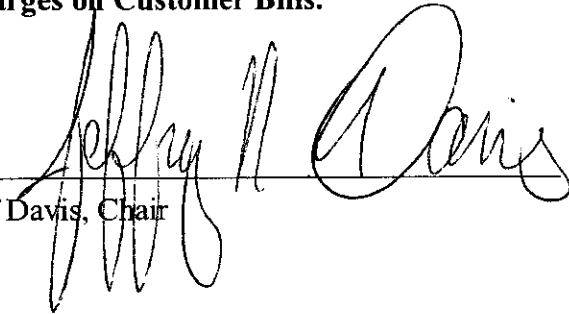
**DATE:** February 3, 2005

**RE:** Authorization to File Proposed Rulemaking with the Office of Secretary of State

**CASE NO:** TX-2005-0258

The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file the following Proposed Rulemaking with the Office of the Secretary of State, to wit:

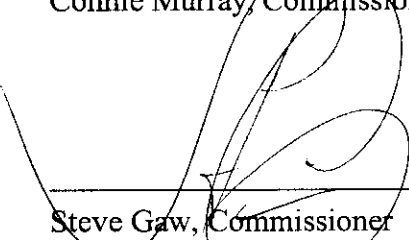
**4 CSR 240-33.045 – Requiring Clear Identification and Placement of Separately Identified Charges on Customer Bills.**



Jeff Davis, Chair



Connie Murray, Commissioner



Steve Gaw, Commissioner



Robert M. Clayton III, Commissioner



Linward "Lin" Appling, Commissioner





**Robin Carnahan**  
Secretary of State

**Administrative Rules Division  
Rulemaking Transmittal Receipt**

Rule ID: 2519  
Date Printed: 2/3/2005  
Rule Number: 4 CSR 240-33.045  
Rulemaking Type: Proposed Rule  
Date Submitted to Administrative Rules Division: 2/3/2005  
Date Submitted to Joint Committee on Administrative Rules:

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Name of Person to Contact with questions concerning this rule:

Content: Marc Poston	Phone: 751-8701	Email: marc.poston@psc.mo.gov	Fax: 751-9285
RuleDataEntry: Lesli Belt	Phone: 751-7499	Email: lesli.belt@psc.mo.gov	Fax:

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Included with Rulemaking:

Cover Letter	2/03/2005
Affidavit for public cost	2/03/2005