



Commissioners

SHEILA LUMPE
Chair

M. DIANNE DRAINER
Vice Chair

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ROBERT G. SCHEMENAUER

KELVIN L. SIMMONS

Missouri Public Service Commission

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

December 29, 2000

BRIAN D. KINKADE
Executive Director

GORDON L. PERSINGER
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED²
DEC 29 2000
Missouri Public
Service Commission

RE: Case No. TX-2001-73, In the Matter of Proposed New Rules on Prepaid Calling Cards

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of the **RULEMAKING PACKETS FOR PROPOSED RULES 4 CSR 240-32.130, 32.140, 32.150, 32.160 AND 32.170.**

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Marc D. Poston
Senior Counsel
(573) 751-8701
(573) 751-9285 (Fax)

MP/lb
Enclosure
cc: Counsel of Record

MEMORANDUM

TO: Dale Hardy Roberts, Secretary

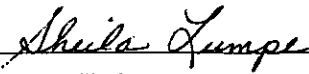
DATE: December 28, 2000

RE: Authorization to File the Proposed Rules 4 CSR 240-32.130, 32.140, 32.150, 32.160, and 32.170 with the Office of Secretary of State

CASE NO: TX-2001-73

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


- 4 CSR 240-32.130 --- General Provisions
- 4 CSR 240-32.140 --- Definitions
- 4 CSR 240-32.150 --- Qualifications for and Responsibilities of Prepaid Calling Services
- 4 CSR 240-32.160 --- Customer Disclosure Requirements
- 4 CSR 240-32.170 --- Standards of Prepaid Calling Service



Sheila Lumpe, Chair



M. Dianne Drainer, Vice Chair



Connie Murray, Commissioner



Robert Schemenauer, Commissioner



Kelvin L. Simmons, Commissioner



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Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

COPY

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DEC 29 2000

**SECRETARY OF STATE
ADMINISTRATIVE RULES**

Honorable Rebecca McDowell Cook
Secretary of State
600 West Main Street
Jefferson City, MO 65101

Attention: Administrative Rules Division

I hereby certify that the attached are accurate and complete copies of the Notice of Proposed Rulemaking lawfully submitted by the Missouri Public Service Commission for filing on the 29th day of December 2000, and that a takings analysis and small business impact analysis have occurred.

Rule: 4 CSR 240-32.130 -General Provisions
Statutory Authority: sections 386.040, RSMo 1994 and 386.250 and 392.200 RSMo (Supp. 1999).
Missouri Public Service Commission Docket No. TX-2001-73.

If there are any questions, please contact:

Marc Poston, Senior Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8701
FAX (573) 751-9285
mposton@mail.state.mo.us

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Enclosures

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DEC 29 2000

**SECRETARY OF STATE
ADMINISTRATIVE RULES**

REBECCA MCDOWELL COOK

Secretary of State

Administrative Rules Division

RULE TRANSMITTAL

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

A. Rule Number 4 CSR 240-32.130

Diskette File Name 4 CSR 240-32.130

Name of Person to call with questions about this rule:

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

Data Entry Natelle Anna Phone (573)751-7427 FAX (573)751-9285

Interagency Mailing Address Governor Office Building, 200 Madison Street, 8th Floor

Statutory Provision for Rulemaking

Authority §§ 386.040, 386.250, 392.200. Provide Most Current RSMo Year 1999

Date Filed With the Joint Committee on Administrative Rules Not Applicable (Exempt pursuant To Section 536.037.3 RSMo Supp. 1999.)

B. CHECK, IF INCLUDED:

FORMS, List by Mo-Form Number, # of Pages

☒ Cover Letter

☒ Affidavit

☒ Cost Statements

☐ Public Entity Fiscal Note

☒ Private Entity Fiscal Note

OTHER Takings Analysis

Small Business Impact Analysis

C. RULEMAKING ACTION TO BE TAKEN

☐ Emergency Rulemaking, Must Specify Effective Date

☒ Proposed Rulemaking (New Rule or Amendment or Rescission of Existing Rule)

☐ Order of Rulemaking (MUST complete page 2 of this transmittal)

☐ Withdrawal (Rule, Amendment, Rescission or Emergency)

☐ Rule Action Notice

☐ In Addition

D. SPECIFIC INSTRUCTIONS: In this space indicate any special instructions (e.g., specify publication date preference, identify material incorporated by references, etc.)

Small Business Analysis is included.

E. ORDER OF RULEMAKING: Rule Number N/A

1a. Effective Date for the Order
Statutory 30 days _____ or later specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?
YES _____ NO _____

1c. If the answer is YES, please complete section F. If the answer is NO, Stop here.

F. Please provide a complete list of the changes in the rule text for the order or rulemaking, indicating the specific section, subsection, subparagraph, part, etc., where each change is found.

(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer language that appears at the bottom of this page.)

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.

COPY
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Title 4 - DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 - Public Service Commission
Chapter 32 - Prepaid Interexchange Calling Services

DEC 29 2000

PROPOSED RULE

SECRETARY OF STATE
ADMINISTRATIVE RULES

4 CSR 240-32.130 General Provisions

PURPOSE: This rule sets forth the applicability of the rules comprising Chapter 32.130 through 32.170.

- (1) This rule, and other rules comprising Chapter 32.140 through 32.170, shall apply to companies that provide prepaid calling interexchange services to the public using their own facilities or reselling the services of another telecommunications company.

AUTHORITY: sections 386.040, RSMo 1994, and 386.250 and 392.200, RSMo Supp. 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, (573) 751-3234. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. Comments should refer to Case No. TX-2001-73, and be filed with an original and nine copies. A public hearing is scheduled for February 16, 2001, at 9:00 a.m. in the Governor Office Building, 200 Madison 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 Service
Type of Rulemaking: New Rule
Rule Number and Name: 4 CSR 240-32.130 General Provisions

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:
0	Class A Local Telephone Companies	\$0
0	Class B Local Telephone Companies	\$0
0	Class C Local Telephone Companies	\$0
500+	Class Interexchange Companies	\$0
	All entities	\$0

* 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 Class Interexchange Telephone Companies certificated by the Missouri Public Service Commission and offering prepaid calling card services. These companies have not reviewed the proposed rule and have not provided any projected fiscal impact. Therefore, the above information is an estimate.
2. The estimated number of entities affected by the proposed rule reflects the total number of interexchange companies certificated within Missouri that could provide prepaid service if tariffs are amended as outlined in the proposed rule.

IV. ASSUMPTIONS

1. The life of the rule is estimated to be five years.
2. Fiscal year 2000 dollars were 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 rules and regulations.
5. The universe of entities is based on fiscal year 2000 data and is assumed to remain constant.
6. Utilities currently provide point of sale materials prior to distribution. Under the proposed rule, utilities would create the material or the templates for the materials prior to the effective date of the tariff.



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DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

September 22, 2000

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Proposed Rule 4 CSR 240-32.130 General Provisions.

Dear Mr. Roberts:

Executive Order 93-13 requires state agencies to undertake a "takings analysis" of each proposed rule or regulation in light of the United States Supreme court decision in *Lucas v. South Carolina Coastal Council*, 112 S. Ct. 2886 (1992). Pursuant to that order, I have undertaken a "takings analysis" of the above-referenced proposed rulemaking. In *Lucas*, the Court held that state regulation depriving an owner of real property of all economically beneficial use of that property constitutes a "taking" under the Fifth and Fourteenth Amendments of the U.S. Constitution, for which the property owner must be compensated. The Court also held that when state regulations compel a property owner to suffer a permanent physical invasion of his/her property, such an invasion is compensable.

The proposed rule sets forth the applicability of proposed rules intended to address prepaid interexchange calling card services.

Adopting the proposed rule does not implicate the takings clause of the U.S. Constitution, because the rule does not involve the taking of real property.

Please let me know if you have any question on this issue.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Marc Poston". The signature is fluid and cursive, with a large initial "M" and a stylized "P".

Marc D. Poston
Senior Counsel
(573) 751-8701
(573) 751-9285 (Fax)

MDP/lb



Commissioners

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September 22, 2000

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DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Proposed Rule 4 CSR 240-32.130 General Provisions.

Dear Mr. Roberts:

Executive Order 96-18 requires state agencies to determine whether a proposed rule making will have direct economic impact on small businesses of five hundred dollars or more in the aggregate. A small business is defined in the Executive Order as an independently owned and operated business entity that employs fifty or fewer full time employees.

The proposed rule sets forth the applicability of proposed rules intended to address prepaid interexchange calling card services and is not estimated to have a direct economic impact on small businesses of five hundred dollars or more in the aggregate.

Please let me know if you have questions on this issue.

Sincerely yours,

A handwritten signature in black ink, reading "Marc Poston".


Marc D. Poston
Senior Counsel
(573) 751-8701
(573) 751-9285 (Fax)

MDP/lb

AFFIDAVIT

STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Joseph L. Driskill, 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 240-32.130 General Provisions is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Joseph L. Driskill
Director

Department of Economic Development

Subscribed and sworn to before me this 8th day of November,
2000. I am commissioned as a notary public within the County of Callaway
State of Missouri, and my commission expires on July 5, 2004.


NOTARY PUBLIC

SHELIA A HELZER
NOTARY PUBLIC STATE OF MISSOURI
CALLAWAY COUNTY
MY COMMISSION EXP. JULY 5, 2004



Commissioners

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Chair

M. DIANNE DRAINER
Vice Chair

CONNIE MURRAY

ROBERT G. SCHEMENAUER

KELVIN L. SIMMONS

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<http://www.psc.state.mo.us>

December 29, 2000

Honorable Rebecca McDowell Cook
Secretary of State
600 West Main Street
Jefferson City, MO 65101

Attention: Administrative Rules Division

I hereby certify that the attached are accurate and complete copies of the Notice of Proposed Rulemaking lawfully submitted by the Missouri Public Service Commission for filing on the 29th day of December 2000, and that a takings analysis and small business impact analysis have occurred.

Rule: 4 CSR 240-32.140 -Definitions
Statutory Authority: sections 386.040, RSMo 1994 and 386.250 and 392.200 RSMo (Supp. 1999).
Missouri Public Service Commission Docket No. TX-2001-73.

If there are any questions, please contact:

Marc Poston, Senior Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8701
FAX (573) 751-9285
mposton@mail.state.mo.us

Enclosures

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Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

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SECRETARY OF STATE
ADMINISTRATIVE RULES

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

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SECRETARY OF STATE
ADMINISTRATIVE RULES

REBECCA MCDOWELL COOK

Secretary of State

Administrative Rules Division

RULE TRANSMITTAL

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

A. Rule Number 4 CSR 240-32.140

Diskette File Name 4 CSR 240-32.140

Name of Person to call with questions about this rule:

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

Data Entry Natelle Anna Phone (573)751-7427 FAX (573)751-9285

Interagency Mailing Address Governor Office Building, 200 Madison Street, 8th Floor

Statutory Provision for Rulemaking

Authority §§ 386.040, 386.250, 392.200. Provide Most Current RSMo Year 1999

Date Filed With the Joint Committee on Administrative Rules Not Applicable (Exempt pursuant To Section 536.037.3 RSMo Supp. 1999.)

B. CHECK, IF INCLUDED:

FORMS, List by Mo-Form Number, # of Pages

☒ Cover Letter

☒ Affidavit

☒ Cost Statements

☐ Public Entity Fiscal Note

☒ Private Entity Fiscal Note

OTHER Takings Analysis

Small Business Impact Analysis

C. RULEMAKING ACTION TO BE TAKEN

☐ Emergency Rulemaking, Must Specify Effective Date

☒ Proposed Rulemaking (New Rule or Amendment or Rescission of Existing Rule)

☐ Order of Rulemaking (MUST complete page 2 of this transmittal)

☐ Withdrawal (Rule, Amendment, Rescission or Emergency)

☐ Rule Action Notice

☐ In Addition

D. SPECIFIC INSTRUCTIONS: In this space indicate any special instructions (e.g., specify publication date preference, identify material incorporated by references, etc.)
Small Business Analysis is included.

E. ORDER OF RULEMAKING: Rule Number N/A

1a. Effective Date for the Order
Statutory 30 days _____ or later specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?
YES _____ NO _____

1c. If the answer is YES, please complete section F. If the answer is NO, Stop here.

F. Please provide a complete list of the changes in the rule text for the order or rulemaking, indicating the specific section, subsection, subparagraph, part, etc., where each change is found.

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NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.

COPY

**Title 4 - DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 - Public Service Commission
Chapter 32 - Prepaid Interexchange Calling Services**

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DEC 29 2000

PROPOSED RULE

**SECRETARY OF STATE
ADMINISTRATIVE RULES**

4 CSR 240-32.140 Definitions

PURPOSE: This rule defines terms used in the rules comprising Chapter 32.130 through 32.170.

- (1) Commission - The Missouri Public Service Commission.
- (2) Company - Any telecommunications company providing prepaid calling services to the public using its own facilities or reselling the services of another telecommunications company.
- (3) Customer - Any entity/person inquiring about or purchasing prepaid calling services.
- (4) Customer Service - A set of services which are available to the prepaid calling service user 24 hours a day, seven days a week via a domestic toll-free number.
- (5) Prepaid Calling Services (PPCS or Services) - Prepaid telecommunications service that allows end users to originate calls through an access number and authorization code, whether manually or electronically dialed.
- (6) Prepaid calling card (Card) - Any object containing an access number and authorization code that enables an end user to use PPCS. This includes, but is not limited to, retail, utility, promotion and collectible calling cards.

AUTHORITY: sections 386.040, RSMo 1994, and 386.250 and 392.200 RSMo Supp. 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, (573) 751-3234. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. Comments should refer to Case No. TX-2001-73, and be filed with an original and nine copies. A public hearing is scheduled for February 16, 2001, at 9:00 a.m. in the Governor Office Building, 200 Madison 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 Service
Type of Rulemaking: New Rule
Rule Number and Name: 4 CSR 240-32.140 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:
0	Class A Local Telephone Companies	\$0
0	Class B Local Telephone Companies	\$0
0	Class C Local Telephone Companies	\$0
500+	Class Interexchange Companies	\$0
	All entities	\$0

* 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 Class Interexchange Telephone Companies certificated by the Missouri Public Service Commission and offering prepaid calling card services. These companies have not reviewed the proposed rule and have not provided any projected fiscal impact. Therefore, the above information is an estimate.
2. The estimated number of entities affected by the proposed rule reflects the total number of interexchange companies certificated within Missouri that could provide prepaid service if tariffs are amended as outlined in the proposed rule.

IV. ASSUMPTIONS

1. The life of the rule is estimated to be five years.
2. Fiscal year 2000 dollars were 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 rules and regulations.
5. The universe of entities is based on fiscal year 2000 data and is assumed to remain constant.
6. Utilities currently provide point of sale materials prior to distribution. Under the proposed rule, utilities would create the material or the templates for the materials prior to the effective date of the tariff.



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September 22, 2000

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Proposed Rule 4 CSR 240-32.140 Definitions.

Dear Mr. Roberts:

Executive Order 93-13 requires state agencies to undertake a "takings analysis" of each proposed rule or regulation in light of the United States Supreme court decision in *Lucas v. South Carolina Coastal Council*, 112 S. Ct. 2886 (1992). Pursuant to that order, I have undertaken a "takings analysis" of the above-referenced proposed rulemaking. In *Lucas*, the Court held that state regulation depriving an owner of real property of all economically beneficial use of that property constitutes a "taking" under the Fifth and Fourteenth Amendments of the U.S. Constitution, for which the property owner must be compensated. The Court also held that when state regulations compel a property owner to suffer a permanent physical invasion of his/her property, such an invasion is compensable.

The proposed rule sets forth the applicable definitions for proposed rules intended to address prepaid interexchange calling card services.

Adopting the proposed rule does not implicate the takings clause of the U.S. Constitution, because the rule does not involve the taking of real property.

Please let me know if you have any question on this issue.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Marc Poston", with a stylized flourish at the end.

Marc D. Poston
Senior Counsel
(573) 751-8701
(573) 751-9285 (Fax)

MDP/lb



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September 22, 2000

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General Counsel

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Proposed Rule 4 CSR 240-32.140 Definitions.

Dear Mr. Roberts:

Executive Order 96-18 requires state agencies to determine whether a proposed rule making will have direct economic impact on small businesses of five hundred dollars or more in the aggregate. A small business is defined in the Executive Order as an independently owned and operated business entity that employs fifty or fewer full time employees.

The proposed rule sets forth the applicable definitions for proposed rules intended to address prepaid interexchange calling card services and is not estimated to have a direct economic impact on small businesses of five hundred dollars or more in the aggregate.

Please let me know if you have questions on this issue.

Sincerely yours,

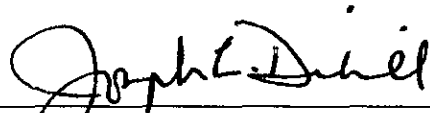
Marc D. Poston
Senior Counsel
(573) 751-8701
(573) 751-9285 (Fax)

MDP/lb

AFFIDAVIT

STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Joseph L. Driskill, 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 240-32.140 Definitions is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Joseph L. Driskill
Director
Department of Economic Development

Subscribed and sworn to before me this 8th day of November,
2000. I am commissioned as a notary public within the County of Callaway,
State of Missouri, and my commission expires on July 5, 2004.


NOTARY PUBLIC

SHELIA A HELZER
NOTARY PUBLIC STATE OF MISSOURI
CALLAWAY COUNTY
MY COMMISSION EXP. JULY 5, 2004



Commissioners

SHEILA LUMPE
Chair

M. DIANNE DRAINER
Vice Chair

CONNIE MURRAY

ROBERT G. SCHEMENAUER

KELVIN L. SIMMONS

Missouri Public Service Commission

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

December 29, 2000

BRIAN D. KINKADE
Executive Director

GORDON L. PERSINGER
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

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**SECRETARY OF STATE
ADMINISTRATIVE RULES**

Honorable Rebecca McDowell Cook
Secretary of State
600 West Main Street
Jefferson City, MO 65101

Attention: Administrative Rules Division

I hereby certify that the attached are accurate and complete copies of the Notice of Proposed Rulemaking lawfully submitted by the Missouri Public Service Commission for filing on the 29th day of December 2000, and that a takings analysis and small business impact analysis have occurred.

Rule : 4 CSR 240-32.150 --- Qualifications for and Responsibilities of Prepaid Calling Services.

Statutory Authority: sections 386.040, RSMo 1994 and 386.250, and 392.200 RSMo (Supp. 1999).

Missouri Public Service Commission Docket No. TX-2001-73.

If there are any questions, please contact:

Marc Poston, Senior Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8701
FAX (573) 751-9285
mposton@mail.state.mo.us

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Enclosures

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DEC 29 2000

REBECCA MCDOWELL COOK

Secretary of State

Administrative Rules Division

RULE TRANSMITTAL

**SECRETARY OF STATE
ADMINISTRATIVE RULES**

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

A. Rule Number 4 CSR 240-32.150

Diskette File Name 4 CSR 240-32.150

Name of Person to call with questions about this rule:

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

Data Entry Natelle Anna Phone (573)751-7427 FAX (573)751-9285

Interagency Mailing Address Governor Office Building, 200 Madison Street, 8th Floor

Statutory Provision for Rulemaking

Authority §§ 386.040, 386.250, 392.200. Provide Most Current RSMo Year 1999

Date Filed With the Joint Committee on Administrative Rules Not Applicable (Exempt pursuant To Section 536.037.3 RSMo Supp. 1999.)

B. CHECK, IF INCLUDED:

FORMS, List by Mo-Form Number, # of Pages

☒ Cover Letter

☒ Affidavit

☒ Cost Statements

☐ Public Entity Fiscal Note

☒ Private Entity Fiscal Note

OTHER Takings Analysis

Small Business Impact Analysis

C. RULEMAKING ACTION TO BE TAKEN

☐ Emergency Rulemaking, Must Specify Effective Date

☒ Proposed Rulemaking (New Rule or Amendment or Rescission of Existing Rule)

☐ Order of Rulemaking (MUST complete page 2 of this transmittal)

☐ Withdrawal (Rule, Amendment, Rescission or Emergency)

☐ Rule Action Notice

☐ In Addition

D. SPECIFIC INSTRUCTIONS: In this space indicate any special instructions (e.g., specify publication date preference, identify material incorporated by references, etc.)

Small Business Analysis is included.

E. ORDER OF RULEMAKING: Rule Number N/A

1a. Effective Date for the Order
Statutory 30 days _____ or later specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?
YES _____ NO _____

1c. If the answer is YES, please complete section F. If the answer is NO, Stop here.

F. Please provide a complete list of the changes in the rule text for the order or rulemaking, indicating the specific section, subsection, subparagraph, part, etc., where each change is found.

(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer language that appears at the bottom of this page.)

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.

**Title 4 - DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 - Public Service Commission
Chapter 32 - Prepaid Interexchange Calling Services**

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DEC 29 2000
SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED RULE

4 CSR 240-32.150 Qualifications for and Responsibilities of the Prepaid Calling Services

PURPOSE: This rule establishes the qualifications for and the responsibilities of the PPCS company.

- (1) A company shall not provide PPCS without first obtaining a certificate of service authority to provide interexchange telecommunications services and having an approved tariff on file at the Commission.
- (2) The company name used on prepaid calling cards shall be identical to the name in which the certificate/tariff is issued.
- (3) A "doing business as" (d/b/a) name may be used on all prepaid calling cards if the d/b/a is registered with the Missouri Secretary of State as a fictitious name and the d/b/a is reflected on the certificate and the tariff prior to providing the Service.

AUTHORITY: sections 386.040, RSMo 1994, and 386.250 and 392.200 RSMo Supp. 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, (573) 751-3234. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. Comments should refer to Case No. TX-2001-73, and be filed with an original and nine copies. A public hearing is scheduled for February 16, 2001, at 9:00 a.m. in the Governor Office Building, 200 Madison 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 Service

Type of Rulemaking: New Rule

Rule Number and Name: 4 CSR 240-32.150 Qualifications for and Responsibilities of the Prepaid Calling Services

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:
0	Class A Local Telephone Companies	\$0
0	Class B Local Telephone Companies	\$0
0	Class C Local Telephone Companies	\$0
500+	Class Interexchange Companies	\$0
	All entities	\$0

* 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 Class Interexchange Telephone Companies certificated by the Missouri Public Service Commission and offering prepaid calling card services. These companies have not reviewed the proposed rule and have not provided any projected fiscal impact. Therefore, the above information is an estimate.
2. The estimated number of entities affected by the proposed rule reflects the total number of interexchange companies certificated within Missouri that could provide prepaid service if tariffs are amended as outlined in the proposed rule.

IV. ASSUMPTIONS

1. The life of the rule is estimated to be five years.
2. Fiscal year 2000 dollars were 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 rules and regulations.
5. The universe of entities is based on fiscal year 2000 data and is assumed to remain constant.
6. Utilities currently provide point of sale materials prior to distribution. Under the proposed rule, utilities would create the material or the templates for the materials prior to the effective date of the tariff.



Commissioners

SHEILA LUMPE
Chair

M. DIANNE DRAINER
Vice Chair

CONNIE MURRAY

ROBERT G. SCHEMENAUER

KELVIN L. SIMMONS

Missouri Public Service Commission

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Executive Director

GORDON L. PERSINGER
Director, Research and Public Affairs

WESS A. HENDERSON
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ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

September 22, 2000

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

**RE: Proposed Rule 4 CSR 240-32.150 Qualifications for and Responsibilities of the
Prepaid Calling Services**

Dear Mr. Roberts:

Executive Order 93-13 requires state agencies to undertake a "takings analysis" of each proposed rule or regulation in light of the United States Supreme court decision in *Lucas v. South Carolina Coastal Council*, 112 S. Ct. 2886 (1992). Pursuant to that order, I have undertaken a "takings analysis" of the above-referenced proposed rulemaking. In *Lucas*, the Court held that state regulation depriving an owner of real property of all economically beneficial use of that property constitutes a "taking" under the Fifth and Fourteenth Amendments of the U.S. Constitution, for which the property owner must be compensated. The Court also held that when state regulations compel a property owner to suffer a permanent physical invasion of his/her property, such an invasion is compensable.

The proposed rule sets forth the qualifications and responsibilities of companies providing prepaid interexchange calling services.

Adopting the proposed rule does not implicate the takings clause of the U.S. Constitution, because the rule does not involve the taking of real property.

Please let me know if you have any question on this issue.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Marc Poston". The signature is fluid and cursive, with the first name "Marc" and last name "Poston" clearly distinguishable.

Marc D. Poston
Senior Counsel
(573) 751-8701
(573) 751-9285 (Fax)

MDP/lb



Commissioners

SHEILA LUMPE
Chair

M. DIANNE DRAINER
Vice Chair

CONNIE MURRAY

ROBERT G. SCHEMENAUER

KELVIN L. SIMMONS

Missouri Public Service Commission

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<http://www.psc.state.mo.us>

September 22, 2000

BRIAN D. KINKADE
Executive Director

GORDON L. PERSINGER
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

**RE: Proposed Rule 4 CSR 240-32.150 Qualifications for and Responsibilities of the
Prepaid Calling Services**

Dear Mr. Roberts:

Executive Order 96-18 requires state agencies to determine whether a proposed rule making will have direct economic impact on small businesses of five hundred dollars or more in the aggregate. A small business is defined in the Executive Order as an independently owned and operated business entity that employs fifty or fewer full time employees.

The proposed rule sets forth the qualifications and responsibilities of companies providing prepaid interexchange calling card services and is not estimated to have a direct economic impact on small businesses of five hundred dollars or more in the aggregate.

Please let me know if you have questions on this issue.

Sincerely yours,

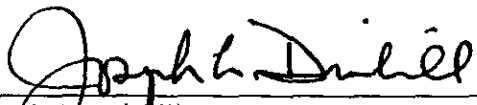
Marc D. Poston
Senior Counsel
(573) 751-8701
(573) 751-9285 (Fax)

MDP/lb

AFFIDAVIT

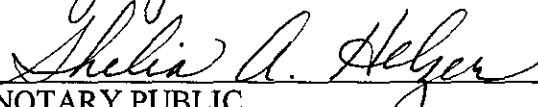
STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Joseph L. Driskill, 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 240-32.150 Qualifications for and Responsibilities of the Prepaid Calling Services is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Joseph L. Driskill
Director
Department of Economic Development

Subscribed and sworn to before me this 8th day of November,
2000. I am commissioned as a notary public within the County of Callaway,
State of Missouri, and my commission expires on July 5, 2004.



NOTARY PUBLIC

SHELIA A HELZER
NOTARY PUBLIC STATE OF MISSOURI
CALLAWAY COUNTY
MY COMMISSION EXP. JULY 5, 2004



Commissioners

SHEILA LUMPE
Chair

M. DIANNE DRAINER
Vice Chair

CONNIE MURRAY

ROBERT G. SCHEMENAUER

KELVIN L. SIMMONS

Missouri Public Service Commission

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JEFFERSON CITY, MISSOURI 65102
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573-751-1847 (Fax Number)
<http://www.psc.state.mo.us>

December 29, 2000

BRIAN D. KINKADE
Executive Director

GORDON L. PERSINGER
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
Counsel

Honorable Rebecca McDowell Cook
Secretary of State
600 West Main Street
Jefferson City, MO 65101

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DEC 29 2000
SECRETARY OF STATE
ADMINISTRATIVE RULES

Attention: Administrative Rules Division

I hereby certify that the attached are accurate and complete copies of the Notice of Proposed Rulemaking lawfully submitted by the Missouri Public Service Commission for filing on the 29th day of December 2000, and that a takings analysis and small business impact analysis have occurred.

Rule : 4 CSR 240-32.160 --- Customer Disclosure Requirements
Statutory Authority: sections 386.040, RSMo 1994 and 386.250 and 392.200 RSMo (Supp. 1999).
Missouri Public Service Commission Docket No. TX-2001-73.

If there are any questions, please contact:

Marc Poston, Senior Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8701
FAX (573) 751-9285
mposton@mail.state.mo.us

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Enclosures

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DEC 29 2000

SECRETARY OF STATE
ADMINISTRATIVE RULES

REBECCA MCDOWELL COOK

Secretary of State

Administrative Rules Division

RULE TRANSMITTAL

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

A. Rule Number 4 CSR 240-32.160

Diskette File Name 4 CSR 240-32.160

Name of Person to call with questions about this rule:

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

Data Entry Natelle Anna Phone (573)751-7427 FAX (573)751-9285

Interagency Mailing Address Governor Office Building, 200 Madison Street, 8th Floor

Statutory Provision for Rulemaking

Authority §§ 386.040, 386.250, 392.200. Provide Most Current RSMo Year 1999

Date Filed With the Joint Committee on Administrative Rules Not Applicable (Exempt pursuant To Section 536.037.3 RSMo Supp. 1999.)

B. CHECK, IF INCLUDED:

FORMS, List by Mo-Form Number, # of Pages

☒ Cover Letter

☒ Affidavit

☒ Cost Statements

☐ Public Entity Fiscal Note

☒ Private Entity Fiscal Note

☐ OTHER Takings Analysis

☐ Small Business Impact Analysis

C. RULEMAKING ACTION TO BE TAKEN

☐ Emergency Rulemaking, Must Specify Effective Date

☒ Proposed Rulemaking (New Rule or Amendment or Rescission of Existing Rule)

☐ Order of Rulemaking (MUST complete page 2 of this transmittal)

☐ Withdrawal (Rule, Amendment, Rescission or Emergency)

☐ Rule Action Notice

☐ In Addition

D. SPECIFIC INSTRUCTIONS: In this space indicate any special instructions (e.g., specify publication date preference, identify material incorporated by references, etc.)

Small Business Analysis is included.

E. ORDER OF RULEMAKING: Rule Number N/A

1a. Effective Date for the Order

Statutory 30 days _____ or later specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?

YES _____ NO _____

1c. If the answer is YES, please complete section F. If the answer is NO, Stop here.

F. Please provide a complete list of the changes in the rule text for the order or rulemaking, indicating the specific section, subsection, subparagraph, part, etc., where each change is found.

(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer language that appears at the bottom of this page.)

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.

**Title 4 - DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 - Public Service Commission
Chapter 32 - Prepaid Interexchange Calling Services**

PROPOSED RULE

4 CSR 240-32.160 Customer Disclosure Requirements

PURPOSE: This rule establishes customer disclosure requirements.

- (1) Company shall provide the following information to the customer before purchase. The information may be disclosed on the prepaid calling card, prepaid calling card packaging, visible display at the point of sale or in the presale document.
 - (a) The certificated name of the company providing PPCS as provided for by 4 CSR 240-32.150.
 - (b) The domestic rate or an appropriate method for the user to calculate the per minute domestic rate plus all applicable surcharges or taxes and any added relevant variables.
 - (c) A statement that the charges outlined in (b) above have the effect of reducing the value of the prepaid calling card by increasing the effective per minute rate of the call.
 - (d) Any expiration policy.
- (2) Company shall disclose the following information to the customer, either on the prepaid calling card or through an insert, after purchase.
 - (a) The certificated name of the company providing PPCS as provided for by 4 CSR 240-32.150.
 - (b) A toll-free customer service number.
 - (c) A toll-free network access number.
 - (d) An authorization code, if required to access the network.
 - (e) The domestic rate or an appropriate method for the service user to calculate the domestic cost per minute plus all applicable surcharges or taxes and any added relevant variables.
 - (f) A statement that the charges outlined in (b) above have the effect of reducing the value of the prepaid calling card by increasing the effective per minute rate of the call.
 - (g) Any expiration date.
- (3) The company must ensure by contract with its retailers or distributors that the disclosure information is provided to the customer.
- (4) Each company shall provide a live operator to answer all incoming calls 24 hours a day, 7 days a week, and/or,
Each company shall electronically voice-record end user complaints.

If an electronic voice-recorder is used:

- (a) the company shall attempt to contact each complainant no later than the next business day following the date of the recording.

AUTHORITY: sections 386.040, RSMo 1994, and 386.250 and 392.200 RSMo Supp. 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.

COPY

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DEC 29 2000

**SECRETARY OF STATE
ADMINISTRATIVE RULES**

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, (573) 751-3234. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. Comments should refer to Case No. TX-2001-73, and be filed with an original and nine copies. A public hearing is scheduled for February 16, 2001, at 9:00 a.m. in the Governor Office Building, 200 Madison 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 Service
Type of Rulemaking: New Rule
Rule Number and Name: 4 CSR 240-32.160 – Customer disclosure requirements

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:
0	Class A Local Telephone Companies	\$0
0	Class B Local Telephone Companies	\$0
0	Class C Local Telephone Companies	\$0
500+	Class Interexchange Companies	\$0
	All entities	\$0

* 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 Class Interexchange Telephone Companies certificated by the Missouri Public Service Commission and offering prepaid calling card services. These companies have not reviewed the proposed rule and have not provided any projected fiscal impact. Therefore, the above information is an estimate.
2. The estimated number of entities affected by the proposed rule reflects the total number of interexchange companies certificated within Missouri that could provide prepaid service if tariffs are amended as outlined in the proposed rule.

IV. ASSUMPTIONS

1. The life of the rule is estimated to be five years.
2. Fiscal year 2000 dollars were 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 rules and regulations.
5. The universe of entities is based on fiscal year 2000 data and is assumed to remain constant.
6. Utilities currently provide point of sale materials prior to distribution. Under the proposed rule, utilities would create the material or the templates for the materials prior to the effective date of the tariff.



Commissioners

SHEILA LUMPE
Chair

M. DIANNE DRAINER
Vice Chair

CONNIE MURRAY

ROBERT G. SCHEMENAUER

KELVIN L. SIMMONS

Missouri Public Service Commission

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DONNA M. KOLILIS
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DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

September 22, 2000

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Proposed Rule 4 CSR 240-32.160 Customer Disclosure Requirements

Dear Mr. Roberts:

Executive Order 93-13 requires state agencies to undertake a "takings analysis" of each proposed rule or regulation in light of the United States Supreme court decision in *Lucas v. South Carolina Coastal Council*, 112 S. Ct. 2886 (1992). Pursuant to that order, I have undertaken a "takings analysis" of the above-referenced proposed rulemaking. In *Lucas*, the Court held that state regulation depriving an owner of real property of all economically beneficial use of that property constitutes a "taking" under the Fifth and Fourteenth Amendments of the U.S. Constitution, for which the property owner must be compensated. The Court also held that when state regulations compel a property owner to suffer a permanent physical invasion of his/her property, such an invasion is compensable.

The proposed rule sets forth the customer disclosure requirements for a company providing prepaid interexchange calling services.

Adopting the proposed rule does not implicate the takings clause of the U.S. Constitution, because the rule does not involve the taking of real property.

Please let me know if you have any question on this issue.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Marc Poston", with a stylized flourish at the end.

Marc D. Poston
Senior Counsel
(573) 751-8701
(573) 751-9285 (Fax)

MDP/lb



Commissioners

SHEILA LUMPE
Chair

M. DIANNE DRAINER
Vice Chair

CONNIE MURRAY

ROBERT G. SCHEMENAUER

KELVIN L. SIMMONS

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September 22, 2000

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DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Proposed Rule 4 CSR 240-32.160 Customer Disclosure Requirements

Dear Mr. Roberts:

Executive Order 96-18 requires state agencies to determine whether a proposed rule making will have direct economic impact on small businesses of five hundred dollars or more in the aggregate. A small business is defined in the Executive Order as an independently owned and operated business entity that employs fifty or fewer full time employees.

The proposed rule sets forth the customer disclosure requirements for a company providing prepaid interexchange calling card services and is not estimated to have a direct economic impact on small businesses of five hundred dollars or more in the aggregate.

Please let me know if you have questions on this issue.

Sincerely yours,

A handwritten signature in cursive script that reads "Marc Poston".

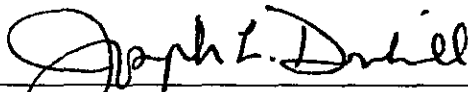
Marc D. Poston
Senior Counsel
(573) 751-8701
(573) 751-9285 (Fax)

MDP/lb

AFFIDAVIT

STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Joseph L. Driskill, 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 240-32.160 Customer Disclosure Requirements is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Joseph L. Driskill
Director
Department of Economic Development

Subscribed and sworn to before me this 8th day of November,
2000. I am commissioned as a notary public within the County of Callaway,
State of Missouri, and my commission expires on July 5, 2004.



NOTARY PUBLIC

SHELIA A HELZER
NOTARY PUBLIC STATE OF MISSOURI
CALLAWAY COUNTY
MY COMMISSION EXP. JULY 5, 2004



Commissioners

SHEILA LUMPE
Chair

M. DIANNE DRAINER
Vice Chair

CONNIE MURRAY

ROBERT G. SCHEMENAUER

KELVIN L. SIMMONS

Missouri Public Service Commission

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

December 29, 2000

BRIAN D. KINKADE
Executive Director

GORDON L. PERSINGER
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

Honorable Rebecca McDowell Cook
Secretary of State
600 West Main Street
Jefferson City, MO 65101

RECEIVED
DEC 29 2000
SECRETARY OF STATE
ADMINISTRATIVE RULES

Attention: Administrative Rules Division

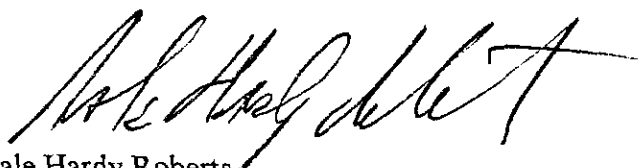
I hereby certify that the attached are accurate and complete copies of the Notice of Proposed Rulemaking lawfully submitted by the Missouri Public Service Commission for filing on the 29th day of December 2000, and that a takings analysis and small business impact analysis have occurred.

Rule : 4 CSR 240-32.170 --- Standards of Prepaid Calling Service
Statutory Authority: sections 386.040, RSMo 1994 and 386.250 and 392.200 RSMo
(Supp. 1999).
Missouri Public Service Commission Docket No. TX-2001-73.

If there are any questions, please contact:

Marc Poston, Senior Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8701
FAX (573) 751-9285
mponston@mail.state.mo.us

BY THE COMMISSION


Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Enclosures

RECEIVED
COPY
DEC 29 2000
SECRETARY OF STATE
ADMINISTRATIVE RULES

REBECCA MCDOWELL COOK
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

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

A. Rule Number 4 CSR 240-32.170

Diskette File Name 4 CSR 240-32.170

Name of Person to call with questions about this rule:

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

Data Entry Natelle Anna Phone (573)751-7427 FAX (573)751-9285

Interagency Mailing Address Governor Office Building, 200 Madison Street, 8th Floor

Statutory Provision for Rulemaking

Authority §§ 386.040, 386.250, 392.200. Provide Most Current RSMo Year 1999

Date Filed With the Joint Committee on Administrative Rules Not Applicable (Exempt pursuant To Section 536.037.3 RSMo Supp. 1999.)

B. CHECK, IF INCLUDED:

FORMS, List by Mo-Form Number, # of Pages

☒ Cover Letter

☒ Affidavit

☒ Cost Statements

☐ Public Entity Fiscal Note

☒ Private Entity Fiscal Note

OTHER Takings Analysis

Small Business Impact Analysis

C. RULEMAKING ACTION TO BE TAKEN

☐ Emergency Rulemaking, Must Specify Effective Date

☒ Proposed Rulemaking (New Rule or Amendment or Rescission of Existing Rule)

☐ Order of Rulemaking (MUST complete page 2 of this transmittal)

☐ Withdrawal (Rule, Amendment, Rescission or Emergency)

☐ Rule Action Notice

☐ In Addition

D. SPECIFIC INSTRUCTIONS: In this space indicate any special instructions (e.g., specify publication date preference, identify material incorporated by references, etc.)

Small Business Analysis is included.

E. ORDER OF RULEMAKING: Rule Number N/A

1a. Effective Date for the Order
Statutory 30 days _____ or later specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?
YES _____ NO _____

1c. If the answer is YES, please complete section F. If the answer is NO, Stop here.

F. Please provide a complete list of the changes in the rule text for the order or rulemaking, indicating the specific section, subsection, subparagraph, part, etc., where each change is found.

(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer language that appears at the bottom of this page.)

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.

COPY

Title 4 - DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 - Public Service Commission
Chapter 32 - Prepaid Interexchange Calling Services

RECEIVED
DEC 29 2000

PROPOSED RULE

STATE
ADMINISTRATIVE RULES

4 CSR 240-32.170 Standards for Prepaid Calling Service

PURPOSE: This rule establishes standards for prepaid calling services.

- (1) The company shall not reduce the value of a Service by more than the charges printed on the card, packaging, visible display at the point of sale or in any presale documentation.
- (2) Service may be recharged by the customer at a rate higher than the rate at initial purchase or last recharge. The higher rate and surcharges shall be no more than the rates and surcharges in the tariff and the customer shall be informed of the higher charges at the time of recharge.
- (3) Increments charged to the prepaid calling card shall be expressed in minutes of use, or fractions thereof.
- (4) Each company shall ensure that a minimum of ninety-eight percent (98%) of all call attempts shall be completed to the called party. Company will not charge for incomplete calls.
- (5) Each company shall only charge for conversation time plus applicable disclosed surcharges. Conversation time begins when the called party answers the call and ends when either party terminates the call.
- (6) When a company ceases operations in the state of Missouri, the company must:
 - a) Provide the commission with 30 days advance notice in writing and include proof of customer notification.
 - b) At least 30 days before termination, provide written notice to customers at the address on file with the company, if applicable, indicating that service will be ending and explain how customers may receive a refund on any unused service.
 - c) Beginning at least 15 days before termination, provide oral notice of termination at the beginning of each call originated in Missouri, including the date of termination and a toll free number to call for more information.
 - d) Provide information to customer via its customer service number and the toll free number outlining the procedure for obtaining refunds and continue to provide this information for 60 days from the date the company ceases operations in Missouri.
- (7) Each company shall have a refund policy that meets the following minimum requirements:
 - (a) If a company is no longer able to provide service and the prepaid calling card is deemed no longer usable and has not exceeded the expiration period of the Card, the company shall provide a refund to the customer in an amount equal to the value remaining on the account.
 - (b) Refunds may be cash or replacement service, at the company's option. The company must provide the refund to the customer within 60 days of notification by the customer.
- (8) Conversation time of less than a full minute shall be rounded up no more than one full minute.
- (9) Services without a specific expiration period printed on the card, and with a balance remaining, shall be considered active for a minimum of one year from the date of first use, or if recharged one year from the date of the last recharge.

(10) Each company shall be responsible for ensuring, either through its contracts with other telecommunications companies, distributors, or marketing agents, that prepaid services remain usable in accordance with this rule.

(11) All services sold in Missouri must comply with Chapter 32.130 through 32.170 six months after the effective date of the rules.

AUTHORITY: sections 386.040, RSMo 1994, and 386.250 and 392.200 RSMo Supp. 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, (573) 751-3234. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. Comments should refer to Case No. TX-2001-73, and be filed with an original and nine copies. A public hearing is scheduled for February 16, 2001, at 9:00 a.m. in the Governor Office Building, 200 Madison 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 Service

Type of Rulemaking: New Rule

Rule Number and Name: 4 CSR 240-32.170 – Standards for prepaid calling services

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:
0	Class A Local Telephone Companies	\$0
0	Class B Local Telephone Companies	\$0
0	Class C Local Telephone Companies	\$0
500+	Class Interexchange Companies	\$0
	All entities	\$0

* 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 Class Interexchange Telephone Companies certificated by the Missouri Public Service Commission and offering prepaid calling card services. These companies have not reviewed the proposed rule and have not provided any projected fiscal impact. Therefore, the above information is an estimate.
2. The estimated number of entities affected by the proposed rule reflects the total number of interexchange companies certificated within Missouri that could provide prepaid service if tariffs are amended as outlined in the proposed rule.

IV. ASSUMPTIONS

1. The life of the rule is estimated to be five years.
2. Fiscal year 2000 dollars were 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 rules and regulations.
5. The universe of entities is based on fiscal year 2000 data and is assumed to remain constant.
6. Utilities currently provide point of sale materials prior to distribution. Under the proposed rule, utilities would create the material or the templates for the materials prior to the effective date of the tariff.



Commissioners

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Chair

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Vice Chair

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DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

September 22, 2000

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Proposed Rule 4 CSR 240-32.170 Standards for Prepaid Calling Service

Dear Mr. Roberts:

Executive Order 93-13 requires state agencies to undertake a "takings analysis" of each proposed rule or regulation in light of the United States Supreme court decision in *Lucas v. South Carolina Coastal Council*, 112 S. Ct. 2886 (1992). Pursuant to that order, I have undertaken a "takings analysis" of the above-referenced proposed rulemaking. In *Lucas*, the Court held that state regulation depriving an owner of real property of all economically beneficial use of that property constitutes a "taking" under the Fifth and Fourteenth Amendments of the U.S. Constitution, for which the property owner must be compensated. The Court also held that when state regulations compel a property owner to suffer a permanent physical invasion of his/her property, such an invasion is compensable.

The proposed rule sets forth standards for the provisioning of prepaid interexchange calling services.

Adopting the proposed rule does not implicate the takings clause of the U.S. Constitution, because the rule does not involve the taking of real property.

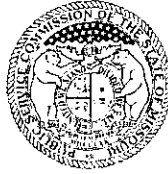
Please let me know if you have any question on this issue.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Marc Poston", with a stylized, cursive script.

Marc D. Poston
Senior Counsel
(573) 751-8701
(573) 751-9285 (Fax)

MDP/lb



Commissioners

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September 22, 2000

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DANA K. JOYCE
General Counsel

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

RE: Proposed Rule 4 CSR 240-32.170 Standards for Prepaid Calling Service

Dear Mr. Roberts:

Executive Order 96-18 requires state agencies to determine whether a proposed rule making will have direct economic impact on small businesses of five hundred dollars or more in the aggregate. A small business is defined in the Executive Order as an independently owned and operated business entity that employs fifty or fewer full time employees.

The proposed rule sets forth standards for the provisioning of prepaid interexchange calling card services and is not estimated to have a direct economic impact on small businesses of five hundred dollars or more in the aggregate.

Please let me know if you have questions on this issue.

Sincerely yours,

A handwritten signature in cursive script, reading "Marc Poston".

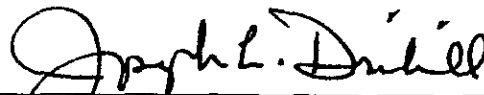
Marc D. Poston
Senior Counsel
(573) 751-8701
(573) 751-9285 (Fax)

MDP/lb

AFFIDAVIT

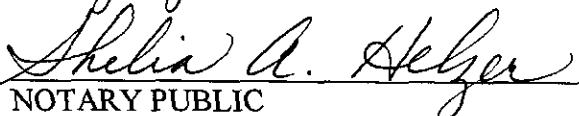
STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Joseph L. Driskill, 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 240-32.170 Standards for Prepaid Calling Service is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Joseph L. Driskill
Director
Department of Economic Development

Subscribed and sworn to before me this 8th day of November,
2000. I am commissioned as a notary public within the County of Callaway
State of Missouri, and my commission expires on July 5, 2004.


NOTARY PUBLIC

SHELIA A HELZER
NOTARY PUBLIC STATE OF MISSOURI
CALLAWAY COUNTY
MY COMMISSION EXP. JULY 5, 2004

**Service List for
Case No. TX-2001-73
December 29, 2000 (lb)**

**Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102**