

# MEMORANDUM

# FILED

MAY 29 2001

TO: Dale Hardy Roberts, Secretary

Missouri Public  
Service Commission

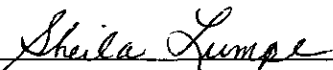
DATE: May 24, 2001

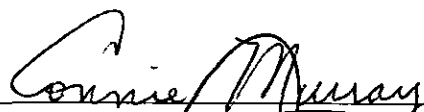
RE: Authorization to File the Final Orders of Rulemaking for 4  
CSR 240-32.130, 32.140, 32.150, 32.160 and 32.170 With the  
Office of Secretary of State

CASE NO: TX-2001-73

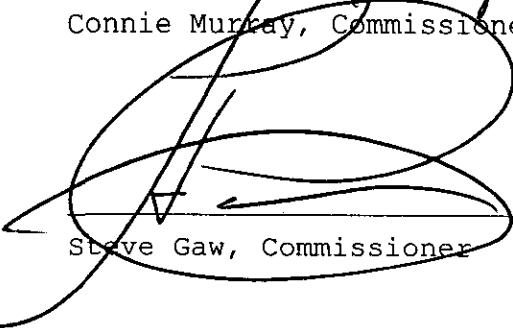
The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file the following Final Orders of Rulemaking with the Office of Secretary of State, to wit:

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

  
Sheila Lumpe, Chair

  
Connie Murray, Commissioner

  
Kelvin L. Simmons, Commissioner

  
Steve Gaw, Commissioner



RECEIVED

MAY 25 2001

SECRETARY OF STATE  
ADMINISTRATIVE RULES

BRIAN D. KINKADE  
Executive Director

WESS A. HENDERSON  
Director, Utility Operations

ROBERT SCHALLENBERG  
Director, Utility Services

DONNA M. KOLLIS  
Director, Administration

DALE HARDY ROBERTS  
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE  
General Counsel

## 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>

May 25, 2001

FILED<sup>3</sup>  
MAY 29 2001

Missouri Public  
Service Commission

### Commissioners

SHEILA LUMPE  
Chair

M. DIANNE DRAINER  
Vice Chair

CONNIE MURRAY

KELVIN L. SIMMONS

STEVE GAW

Honorable Matt Blunt  
Secretary of State  
600 West Main Street  
Jefferson City, MO 65101

### ATTENTION: Administrative Rules Division

I do hereby certify that the attached are accurate and complete copies of the Final Order of Rulemaking lawfully submitted by the Missouri Public Service Commission for filing this 25th day of May 2001.

Rule: 4 CSR 240-32.130 – General Provisions – Prepaid Interexchange Calling Services

Statutory Authority: § 386.040, 386.250 and 392.200 RSMo 2000.

Missouri Public Service Commission Case 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 (Telephone)  
(573) 751-9285 (Fax)  
[mposton@mail.state.mo.us](mailto:mposton@mail.state.mo.us)

BY THE COMMISSION

Dale Hardy Roberts  
Secretary

Enclosures

**MATT BLUNT**  
**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 Rule 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 Dietrich Phone (573)751-7427 FAX (573)751-9285

Interagency Mailing Address Governor Office Building, 200 Madison Street, Suite 812

Jefferson City, MO 65101

Statutory Provision for Rulemaking

Authority § 386.040, 386.250, 392.200. Provide Most Current RSMo Year 2000

Date Filed With the Joint Committee on Administrative Rules Not Applicable (Exempt pursuant To Section 536.037.3 RSMo 2000.)

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

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:)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-32.130

1a. Effective Date for the Order  
Statutory 30 days X or later specific date \_\_\_\_\_

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

Changes to the proposed rule from the version filed with the Notice of Proposed Rulemaking are found in the following section:

4 CSR 240-32.130(1) is subdivided into (a) and (b).

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—Rules of Department of Economic Development  
Division 240—Public Service Commission  
Chapter 32—Telecommunications Service**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Public Service Commission under sections 386.040, 386.250 and 392.200 RSMo 2000, the Commission adopts a rule as follows:

**4 CSR 240-32.130 is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2001 (26 Mo. Reg. 330-333). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** A hearing was held on March 16, 2001, at 9:00 a.m., in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Oral testimony and written comments were received during the comment period regarding proposed rules 4 CSR 240-32.130 through 32.170.

**COMMENTS:** Comments offered support for the Commission's efforts to protect consumers by adopting prepaid calling card rules.

**RESPONSE:** The Commission thanks all parties for their valuable comments.

**COMMENTS:** A comment recommended a change to proposed rule 4 CSR 240-32.140(2) to correct an ambiguity found in the definition of "company". Although the comment did not specifically address 4 CSR 240-32.130, the same potential ambiguity exists since 32.130 and 32.140(2) use the same language. As proposed, the term "resellers" could be misconstrued to apply to distributors of prepaid calling cards that are not telecommunications companies.

**RESPONSE:** The Commission subdivided subsection 1 to address the potential ambiguity.

**4 CSR 240-32.130 General Provisions – Prepaid Interexchange Calling Services**

(1) This rule, and other rules comprising 4 CSR 240-32.130 through 4 CSR 240-32.170, shall apply to companies that provide prepaid calling interexchange services to the public: (a) using their own facilities; or, (b) reselling the services of another telecommunications company.



RECEIVED

MAY 25 2001

SECRETARY OF STATE  
ADMINISTRATIVE RULES

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

## 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>

May 25, 2001

FILED<sup>3</sup>  
MAY 29 2001

Missouri Public  
Service Commission

### Commissioners

SHEILA LUMPE  
Chair

M. DIANNE DRAINER  
Vice Chair

CONNIE MURRAY

KELVIN L. SIMMONS

STEVE GAW

Honorable Matt Blunt  
Secretary of State  
600 West Main Street  
Jefferson City, MO 65101

### ATTENTION: Administrative Rules Division

I do hereby certify that the attached are accurate and complete copies of the Final Order of Rulemaking lawfully submitted by the Missouri Public Service Commission for filing this 25th day of May 2001.

Rule: 4 CSR 240-32.140 – Definitions – Prepaid Interexchange Calling Services

Statutory Authority: § 386.040, 386.250 and 392.200 RSMo 2000.

Missouri Public Service Commission Case 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 (Telephone)  
(573) 751-9285 (Fax)  
[mposton@mail.state.mo.us](mailto:mposton@mail.state.mo.us)

BY THE COMMISSION

Dale Hardy Roberts  
Secretary

Enclosures

**MATT BLUNT**  
**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 Rulemaking 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 Dietrich Phone (573)751-7427 FAX (573)751-9285

Interagency Mailing Address Governor Office Building, 200 Madison Street, Suite 812

Jefferson City, MO 65101

Statutory Provision for Rulemaking

Authority § 386.040, 386.250, 392.200. Provide Most Current RSMo Year 2000

Date Filed With the Joint Committee on Administrative Rules Not Applicable (Exempt pursuant To Section 536.037.3 RSMo 2000.)

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

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.)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-32.140

1a. Effective Date for the Order  
Statutory 30 days X or later specific date \_\_\_\_\_

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

Changes to the proposed rule from the version filed with the Notice of Proposed Rulemaking are found in the following sections:

- 4 CSR 240-32.140(2) is changed by subdividing the subsection into (a) and (b).
- 4 CSR 240-32.140(3) is changed by deleting and adding text.
- 4 CSR 240-32.140(6) is changed by deleting and adding text.

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—Rules of Department of Economic Development  
Division 240—Public Service Commission  
Chapter 32—Telecommunications Service**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Public Service Commission under sections 386.040, 386.250 and 392.200 RSMo 2000, the Commission adopts a rule as follows:

**4 CSR 240-32.140 is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2001 (26 Mo. Reg. 330-333). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** A hearing was held on March 16, 2001, at 9:00 a.m., in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Oral testimony and written comments were received during the comment period.

**COMMENT:** The Commission should modify the definition of “company” in subsection (2) to correct an ambiguity. As proposed, the term “reseller” could be misconstrued to apply to distributors of prepaid calling cards that are not telecommunications companies.

**RESPONSE:** The Commission clarifies subsection (2) by subdividing the definition of “company” and, therefore, removing the ambiguity.

**COMMENT:** The Commission should clarify the definition of “customer” found in 4 CSR 240-32.140(3) by replacing the term “entity/person” with the term “end user.”

**RESPONSE:** The Commission agrees this clarification is necessary and replaces “entity/person” with “end user” in the definition of “customer.”

**COMMENT:** The Commission should clarify the definition of “prepaid calling services” to indicate the rule applies to interexchange calling services.

**RESPONSE:** The Commission agrees this clarification is necessary and inserts the word “interexchange” into the definition.

**COMMENT:** Several comments addressed the definition of “prepaid calling card” found in subsection (6) and requested that promotional cards and other cards issued to customers free of charge be exempted from the definition. One comment, however, replied that an exemption for promotional cards should be narrowly defined. Another comment asked that promotional cards be exempted unless the customer has the option of reactivating the card and incurring charges.

**RESPONSE:** The Commission changes subsection (6) to clarify that promotional cards are only subject to the terms of the proposed rule when a customer must purchase the prepaid calling service.

**4 CSR 240-32.140 Definitions—Prepaid Interexchange Calling Services**

(1) Commission—The Missouri Public Service Commission.

(2) Company—Any telecommunications company providing prepaid calling services to the public: (a) using its own facilities; or, (b) reselling the services of another telecommunications company.

(3) Customer—Any end user 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 interexchange 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 and collectible calling cards. Promotional calling cards become prepaid calling cards when the consumer must purchase prepaid calling services at the time of issuance or at some time in the future in order to use the promotional card.



RECEIVED

MAY 25 2001

SECRETARY OF STATE  
ADMINISTRATIVE RULES

BRADLEY SINKADE  
Executive Director

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

## 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>

May 25, 2001

Commissioners  
SHEILA LUMPE  
Chair  
M. DIANNE DRAINER  
Vice Chair  
CONNIE MURRAY  
KELVIN L. SIMMONS  
STEVE GAW

Honorable Matt Blunt  
Secretary of State  
600 West Main Street  
Jefferson City, MO 65101

### ATTENTION: Administrative Rules Division

I do hereby certify that the attached are accurate and complete copies of the Final Order of Rulemaking lawfully submitted by the Missouri Public Service Commission for filing this 25th day of May 2001.

Rule: 4 CSR 240-32.160 – Customer Disclosure Requirements

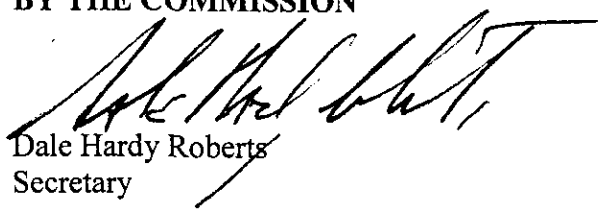
Statutory Authority: § 386.040, 386.250 and 392.200 RSMo 2000.

Missouri Public Service Commission Case 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 (Telephone)  
(573) 751-9285 (Fax)  
[mposton@mail.state.mo.us](mailto:mposton@mail.state.mo.us)

BY THE COMMISSION

  
Dale Hardy Roberts  
Secretary

Enclosures

**MATT BLUNT**  
**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 Rule 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 Dietrich Phone (573)751-7427 FAX (573)751-9285

Interagency Mailing Address Governor Office Building, 200 Madison Street, Suite 800

Jefferson City, MO 65101

Statutory Provision for Rulemaking

Authority § 386.040, 386.250, 392.200. Provide Most Current RSMo Year 2000

Date Filed With the Joint Committee on Administrative Rules Not Applicable (Exempt pursuant To Section 536.037.3 RSMo 2000.)

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

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.)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-32.160

1a. Effective Date for the Order  
Statutory 30 days X or later specific date \_\_\_\_\_

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

Changes to the proposed rule from the version filed with the Notice of Proposed Rulemaking are found in the following sections:

- 4 CSR 240-32.160(1)(B) is changed by adding and deleting text.
- 4 CSR 240-32.160(1)(C) is deleted.
- 4 CSR 240-32.160(1)(D) is changed by adding text and by moving the subsection to (1)(C).
- 4 CSR 240-32.160(2)(C) is changed by adding text.
- 4 CSR 240-32.160(2)(E) is moved to new subsection (3)(A) and a new (2)(E) is added.
- 4 CSR 240-32.160(2)(F) is deleted.
- 4 CSR 240-32.160(2)(G) is changed by adding text and by moving the subsection to (3)(B).
- 4 CSR 240-32.160(3) is changed by adding and deleting text and by moving the subsection to (4).
- 4 CSR 240-32.160(3)(A) [see (2)(E) above].
- 4 CSR 240-32.160(3)(B) [see (2)(G) above].
- 4 CSR 240-32.160(4) is moved to new subsection (5).

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—Rules of Department of Economic Development  
Division 240—Public Service Commission  
Chapter 32—Telecommunications Service**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Public Service Commission under sections 386.040, 386.250 and 392.200 RSMo 2000, the Commission adopts a rule as follows:

**4 CSR 240-32.160 is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2001 (26 Mo. Reg. 330-333). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** A hearing was held on March 16, 2001, at 9:00 a.m., in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Oral testimony and written comments were received during the comment period.

**COMMENTS:** A number of comments expressed concern that the rules attempted to require companies to control the practices of their retailers. The comments highlight the difficulties facing companies that have little influence over the business practices of their retailers and distributors. One comment, however, supported a rule that would require companies to contractually require their retailers and distributors to abide by the prepaid calling card rules.

**RESPONSE:** Proposed subsection (3) is moved to subsection (4) and changed to require the company to notify its retailers and distributors that disclosure is required under the Commission's rules.

**COMMENTS:** One comment indicated that the customer service standards in proposed subsection (4) are already required under Chapter 33 of the Commission's rules.

**RESPONSE:** The Commission maintains subsection (4) as proposed to ensure the customer can contact the company for complaints or questions about the service. No changes were made to subsection (4) other than moving the section in its entirety to subsection (5).

**COMMENT:** Several comments requested the removal of the disclosure statement in proposed subsections (1)(C) and (2)(F). Some claimed these sections were redundant.

**RESPONSE:** The Commission agrees with the comments and removes proposed subsections (1)(C) and (2)(F) from the rules. These provisions were intended to educate the customer on how to calculate charges, and comments received at the public hearing stressed the importance of educating the customer. The Commission adds a new subsection (3) to protect the customer in this regard. This change also moves a portion of subsection (2) into new subsection (3).

**COMMENT:** One comment suggested that proposed subsections (1)(B) and (2)(E) should be modified to clarify that the required disclosures regarding surcharges, taxes, and any added relevant variables apply only to such *domestic* surcharges, taxes, etc. In addition, several comments asked that subsections (1)(B) and (2)(E) be revised to allow companies more flexibility in pricing their products.

**RESPONSE:** The Commission revised subsections (1)(B) and (2)(E) to address these concerns. Subsection (1)(B) is changed to allow the companies greater pricing flexibility. Subsection (2)(E) is moved to new subsection (3)(A) and changed to allow greater pricing flexibility. New subsection (3)(A) is also changed to reflect that the subsection applies to domestic charges.

COMMENT: Many comments cautioned the Commission against state-specific card requirements proposed in subsection (1)(B). They stated that state-specific requirements would be costly to companies and could deter companies from offering prepaid calling services in Missouri. The main state-specific concern regarded the requirement that charges be expressed in minutes.

RESPONSE: The Commission believes the goals of this rule can be reached without requiring companies to print a Missouri-specific card. Subsection (1)(B) is changed to allow billing increments that are not on a per-minute basis so long as the billing increment is defined for the customer. Subsection (2)(E) is moved to subsection (3)(A) and changed to allow billing increments other than minutes.

COMMENT: Several comments requested clarification of subsection (3) [now subsection (5)] to allow either 24 hour, 7 days a week customer service *or* electronic voice-recording by deleting the phrase "and/or" and replacing it with "or."

RESPONSE: The Commission agrees that this clarification is necessary. The rule is changed accordingly.

COMMENT: One comment suggested a modification to (2)(C) to allow companies to provide access through a toll-free number *or* a local access number at their discretion.

RESPONSE: The Commission recognizes the need for this change and adds a local access number option.

COMMENT: One comment stated that the rules should be changed to allow disclosure of either an expiration policy *or* an expiration date.

RESPONSE: The Commission adds text to reflect this change in subsections (1)(C), (2)(E) and (3)(B).

COMMENT: Several comments discussed the Commission's enforcement of the proposed prepaid calling card rules requiring disclosure, suggesting that the Commission avoid making rules that it does not intend to actively enforce. Other comments suggested that the Commission specifically request a report from its staff regarding enforcement activities.

RESPONSE: These disclosure requirements are meant to deter misleading practices and to have rules that apply if complaints are brought to the Commission regarding violations of the rules. No changes were made following these comments.

#### **4 CSR 240-32.160 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 prepaid calling services (PPCS) as provided for by 4 CSR 240-32.150.

(B) The maximum domestic per minute rate or the maximum charge per billing increment plus all applicable surcharges or taxes and any added relevant variables. If a company uses billing increments other than per minute rates, the billing increment must be defined.

(C) Any expiration policy or date.

(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 or local network access number.

(D) An authorization code, if required to access the network.

(E) Any expiration policy or date.

(3) Company shall provide through its toll-free customer service number, the following information to the customer.

(A) The maximum domestic rate including all applicable surcharges or taxes and any added relevant variables, the maximum charge per billing increment 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.

(B) Any expiration policy or date.

(4) The company shall notify its retailers and distributors that customer disclosure information as set forth in 4 CSR 240-32.160 (1) is required.

(5) Each company shall provide a live operator to answer all incoming calls 24 hours a day, 7 days a week 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.





RECEIVED

MAY 25 2001

SECRETARY OF STATE  
ADMINISTRATIVE RULES

BRIAN D. KINKADE  
Executive Director

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

## 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>

May 25, 2001

FILED<sup>3</sup>  
MAY 29 2001

Missouri Public  
Service Commission

### Commissioners

SHEILA LUMPE  
Chair

M. DIANNE DRAINER  
Vice Chair

CONNIE MURRAY

KELVIN L. SIMMONS

STEVE GAW

Honorable Matt Blunt  
Secretary of State  
600 West Main Street  
Jefferson City, MO 65101

### ATTENTION: Administrative Rules Division

I do hereby certify that the attached are accurate and complete copies of the Final Order of Rulemaking lawfully submitted by the Missouri Public Service Commission for filing this 25th day of May 2001.

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

Statutory Authority: § 386.040, 386.250 and 392.200 RSMo 2000.

Missouri Public Service Commission Case 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 (Telephone)  
(573) 751-9285 (Fax)  
[mponston@mail.state.mo.us](mailto:mponston@mail.state.mo.us)

BY THE COMMISSION

Dale Hardy Roberts  
Secretary

Enclosures

**MATT BLUNT**  
**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 240-32.150

Diskette File Name Rule 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 Dietrich Phone (573)751-7427 FAX (573)751-9285

Interagency Mailing Address Governor Office Building, 200 Madison Street, Suite 800

Jefferson City, MO 65101

Statutory Provision for Rulemaking

Authority § 386.040, 386.250, 392.200. Provide Most Current RSMo Year 2000

Date Filed With the Joint Committee on Administrative Rules Not Applicable (Exempt pursuant To Section 536.037.3 RSMo 2000.)

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

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:)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-32.150

1a. Effective Date for the Order

Statutory 30 days X or later specific date \_\_\_\_\_

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

YES X 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.)

Changes to the proposed rule from the version filed with the Notice of Proposed Rulemaking are found in the following sections:

4 CSR 240-32.150(2) is changed by adding text.

4 CSR 240-32.150(3) is changed by adding text.

4 CSR 240-32.150(4) is added.

4 CSR 240-32.150(5) is added.

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 - Rules of Department of Economic Development  
Division 240-Public Service Commission  
Chapter 32-Telecommunications Service

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Public Service Commission under sections 386.040, 386.250 and 392.200 RSMo 2000, the Commission adopts a rule as follows:

**4 CSR 240-32.150 is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2001 (26 Mo. Reg. 330-333). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** A hearing was held on March 16, 2001, at 9:00 a.m., in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Oral testimony and written comments were received during the comment period.

**COMMENT:** One comment supports a requirement that the company name appear on the prepaid calling card, but requests that the Commission not require the company's certificated name to appear on the card as required under subsection (2). Another comment asked that subsection (2) be clarified to indicate whether the certificated name or the d/b/a name should appear on the card.

**RESPONSE:** Requiring the prepaid calling cards to include the company's certificated name is essential to determine which company's tariffs apply to the card. This can be accomplished by allowing the company to include the certificated name in the prepaid card packaging *or* on the prepaid card itself. Subsections (2) and (3) have been changed to address these comments. These rules will allow the certificated name and the d/b/a to appear on either the card or the packaging.

**COMMENT:** Several comments stressed the importance of requiring that prepaid card providers be certificated to provide interexchange telecommunications services to protect the consumer. One comment further stressed the importance of disclosing all prices, terms and conditions in the company's filed tariffs.

**RESPONSE:** In response to this comment, the Commission adds subsection (5) that states "all prepaid calling services charges, surcharges and fees subject to Missouri Public Service Commission jurisdiction shall be no more than the company's Missouri-tariffed rates."

**COMMENT:** Several comments regarding proposed rule 4 CSR 240-32.170 requested that companies be allowed to express charges in units other than minutes.

**RESPONSE:** The Commission partly addressed these comments in 4 CSR 240-32.170 by allowing companies to charge in increments other than minutes. To ensure that these charges are properly tariffed, the Commission adds subsection (4) that requires a company to define billing increments other than minutes, if applicable.

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

- (1) A company shall not provide prepaid calling services (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 and/or the prepaid card packaging shall be identical to the name in which the certificate and tariff are issued.
- (3) A "doing business as" (d/b/a) name may be used on all prepaid calling cards and/or prepaid Card packaging 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.
- (4) All prepaid calling services charges, surcharges and fees subject to Missouri Public Service Commission jurisdiction shall be no more than the company's Missouri-tariffed rates.
- (5) If a company uses billing increments other than per minute rates, the billing increment must be defined in the company's Missouri tariff.



RECEIVED

MAY 25 2001

SECRETARY OF STATE  
ADMINISTRATIVE RULES

BRIAN D. KINKADE  
Executive Director

WESS A. HENDERSON  
Director, Utility Operations

ROBERT SCHALLENBERG  
Director, Utility Services

DONNA M. KOLLIS  
Director, Administration

DALE HARDY ROBERTS  
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE  
General Counsel

## 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>

May 25, 2001

FILED<sup>3</sup>  
MAY 29 2001

Missouri Public  
Service Commission

### Commissioners

SHEILA LUMPE  
Chair

M. DIANNE DRAINER  
Vice Chair

CONNIE MURRAY

KELVIN L. SIMMONS

STEVE GAW

Honorable Matt Blunt  
Secretary of State  
600 West Main Street  
Jefferson City, MO 65101

### ATTENTION: Administrative Rules Division

I do hereby certify that the attached are accurate and complete copies of the Final Order of Rulemaking lawfully submitted by the Missouri Public Service Commission for filing this 25th day of May 2001.

Rule: 4 CSR 240-32.170 – Standards for Prepaid Calling Services

Statutory Authority: § 386.040, 386.250 and 392.200 RSMo 2000.

Missouri Public Service Commission Case 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 (Telephone)  
(573) 751-9285 (Fax)  
[mponston@mail.state.mo.us](mailto:mponston@mail.state.mo.us)

BY THE COMMISSION

Dale Hardy Roberts  
Secretary

Enclosures

**MATT BLUNT**  
**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 Rule 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 Dietrich Phone (573)751-7427 FAX (573)751-9285

Interagency Mailing Address Governor Office Building, 200 Madison Street, Suite 800

Jefferson City, MO 65101

Statutory Provision for Rulemaking

Authority § 386.040, 386.250, 392.200. Provide Most Current RSMo Year 2000

Date Filed With the Joint Committee on Administrative Rules Not Applicable (Exempt pursuant To Section 536.037.3 RSMo 2000.)

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

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:)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-32.170

1a. Effective Date for the Order

Statutory 30 days X or later specific date \_\_\_\_\_

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

YES X 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 of 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.)

Changes to the proposed rule from the version filed with the Notice of Proposed Rulemaking are found in the following sections:

- 4 CSR 240-32.170(3) is changed by adding text.
- 4 CSR 240-32.170(4) is deleted.
- 4 CSR 240-32.170(5) is moved to subsection (4).
- 4 CSR 240-32.170(6) is moved to subsection (5).
- 4 CSR 240-32.170(7) is moved to subsection (6).
- 4 CSR 240-32.170(8) is moved to subsection (7) and changed by deleting and adding text.
- 4 CSR 240-32.170(9) is moved to subsection (8).
- 4 CSR 240-32.170(10) is deleted.
- 4 CSR 240-32.170(11) is moved to subsection (9).

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—Rules of Department of Economic Development  
Division 240—Public Service Commission  
Chapter 32—Telecommunications Service**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Public Service Commission under sections 386.040, 386.250 and 392.200 RSMo 2000, the Commission adopts a rule as follows:

**4 CSR 240-32.170 is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 1, 2001 (26 Mo. Reg. 330-333). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** A hearing was held on March 16, 2001, at 9:00 a.m., in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Oral testimony and written comments were received during the comment period.

**COMMENT:** Comments expressed their concern over practices that allow companies to reduce the balance on a prepaid calling card with charges that were not disclosed to the customer.

**RESPONSE:** The Commission changes subsection (1) to ensure that companies disclose all charges that will reduce the balance on the card.

**COMMENT:** Comments opposed the subsection (3) requirement that charges be expressed in minutes of use or fractions thereof. Companies that provide prepaid calling cards with charges expressed in units other than minutes would be forced to change their charge practice or cease offering their cards in Missouri.

**RESPONSE:** The purposes of this rule can be reached without requiring companies to print a Missouri-specific card. Subsection (3) is changed to address this concern by adding "units" and "dollars" to the increments that must be disclosed.

**COMMENT:** Several comments requested a change in the rules to grandfather the existing stock of cards. One party suggested a 6 to 9 month limit to grandfather cards.

**RESPONSE:** The current six month effective date allows sufficient time for companies to use their existing stock of cards. Comments indicated that most companies offer cards that already comply with these rules. No changes were made following these comments.

**COMMENT:** Comments stated that subsection (4) would place the impossible task of requiring a 98% call completion percentage on a company that is dependent upon other telecommunications companies to complete a call. One party noted that the Commission already requires a completion percentage in 4 CSR 240-32.080(5)(H) of the Commission's rules.

**RESPONSE:** The Commission acknowledges that 4 CSR 240-32.080(5)(H) requires companies to adhere to a completion percentage and, therefore, deletes subsection (4) from the rules.

**COMMENT:** One party stated that subsection (8) [now subsection (7)] unnecessarily restricts a company's ability to provide prepaid calling cards in denominations other than minutes.

**RESPONSE:** The language in subsection (8) [now subsection (7)] protects customers from unreasonable charges. A clarifying change was made to this subsection.

COMMENT: Subsection (6)(D) [now subsection (5)(D)] should only require customer service information on refunds for 30 days from the date the company ceases operations in Missouri. The proposed 60 days is extensive.

RESPONSE: Many customers may not exhaust the calling time on the prepaid card within 30 days from the day of purchase. Customers may lose an opportunity to receive a refund if subsection (6)(D) [now subsection (5)(D)] were changed as proposed. No changes were made to this subsection following this comment.

COMMENT: One comment suggested deleting the written notice requirement of subsection (6)(B) [now subsection (5)(B)]. The comment stated that the requirement was impossible to implement.

RESPONSE: Subsection (6)(B) [now subsection (5)(B)] only requires written notice if applicable. Such notice would not be applicable where the customer's identity is unknown to the company. No changes were made to this subsection following this comment.

COMMENTS: A number of comments expressed concern that the rules attempted to require companies to control the practices of their retailers. The comments highlight the difficulties facing companies that have little influence over the business practices of their retailers and distributors. One comment, however, supported a rule that would require companies to contractually require their retailers and distributors to abide by the prepaid calling card rules.

RESPONSE: 4 CSR 240-32.160(4) requires companies to notify their retailers or distributors that disclosure is required under the Commission's rules. The Commission deletes subsection (10) from these rules.

#### **4 CSR 240-32.170 Standards for Prepaid Calling Service**

(1) The company shall not reduce the balance on the card by more than the charges printed on the card, packaging, visible display at the point of sale and 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, units, dollars, or fractions thereof.

(4) 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.

(5) 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.

(6) 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.

(7) Conversation time of less than a full minute shall be rounded to no more than the next full minute.

(8) 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.

(9) All services sold in Missouri must comply with 4 CSR 240-32.130 through 4 CSR 240-32.170 six months after the effective date of the rules.