

FILED  
March 4, 2011  
Data Center  
Missouri Public  
Service Commission



**Robin Carnahan**  
Secretary of State

**Administrative Rules Division  
Rulemaking Transmittal Receipt**

Rule ID: 12608  
Date Printed: 3/2/2011  
Rule Number: 4 CSR 240-2.050  
Rulemaking Type: Proposed Amendment  
Date Submitted to Administrative Rules Division: 3/2/2011  
Date Submitted to Joint Committee on Administrative Rules: 3/2/2011

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Name of Person to Contact with questions concerning this rule:

Content: Nancy Dippell

Phone: 1-4393

Email: nancy.dippell@psc.mo.gov

Fax:

RuleDataEntry:

Phone:

Email:

Fax:

---

Included with Rulemaking:

Cover Letter

3/02/2011

Affidavit for public cost

3/02/2011

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

**RULE TRANSMITTAL**

Administrative Rules Stamp

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SECRETARY OF STATE  
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-2.050

**COPY**

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

Name of person to call with questions about this rule:

Content Nancy Dippell Phone 573-751-4393 FAX

Email address Nancy.dippell@psc.mo.gov

Data Entry same Phone  FAX

Email address

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

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☒ Proposed Rulemaking

☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Order of Rulemaking

Effective Date for the Order

☐ Statutory 30 days OR Specific date

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

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

Amending sections (2) and (3).

Small Business Regulatory  
Fairness Board (DED) Stamp

SMALL BUSINESS  
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

MAR 02 2011

ADMINISTRATIVE RULES



**Commissioners**

**KEVIN GUNN**  
Chairman

**ROBERT M. CLAYTON III**

**JEFF DAVIS**

**TERRY M. JARRETT**

**ROBERT S. KENNEY**

***Missouri Public Service Commission***

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

**WESS A. HENDERSON**  
Executive Director

**VACANT**  
Director, Administration and  
Regulatory Policy

**ROBERT SCHALLENBERG**  
Director, Utility Services

**NATELLE DIETRICH**  
Director, Utility Operations

**STEVEN C. REED**  
Secretary/General Counsel

**KEVIN A. THOMPSON**  
Chief Staff Counsel

March 2, 2011

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

Re: 4 CSR 240-2.050 Computation of Time

Dear Secretary Carnahan,

**CERTIFICATION OF ADMINISTRATIVE RULE**

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

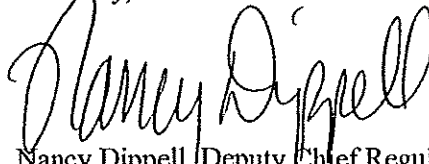
The Public Service Commission has determined and hereby certifies that this proposed rulemaking will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section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

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

Statutory Authority: section 386.410, RSMo 2000

If there are any questions regarding the content of this proposed rulemaking, please contact me at the address and number below.

Sincerely,

A handwritten signature in black ink, reading "Nancy Dippell". The signature is fluid and cursive, with the first name "Nancy" and last name "Dippell" clearly distinguishable.

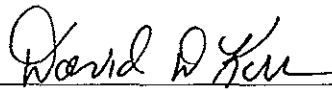
Nancy Dippell, Deputy Chief Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street  
P.O. Box 360  
Jefferson City, MO 65102  
(573) 751-4393  
Nancy.dippell@psc.mo.gov

Enclosure

**AFFIDAVIT  
PUBLIC COST**

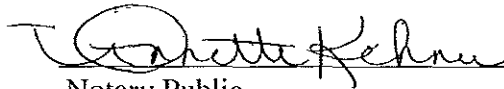
STATE OF MISSOURI )  
 )  
COUNTY OF COLE )

I, David Kerr, 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 amendment, 4 CSR 240-2.050, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

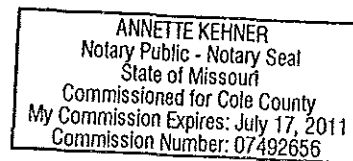


David Kerr  
Director  
Department of Economic Development

Subscribed and sworn to before me this 18<sup>th</sup> day of February, 2011, I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on 17 JULY 2011.



Notary Public



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

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PROPOSED AMENDMENT

SECRETARY OF STATE  
ADMINISTRATIVE RULES

**4 CSR 240-2.050 Computation of Time** The commission is amending sections (2) and (3).

*PURPOSE: Section (2) is amended to clarify the effective date and time of commission orders. Section (3) is amended to change the standard required to get an extension of time from "where the failure to act was the result of excusable neglect" to "for good cause shown."*

**(2) Except when the issuance and effective date are the same, [i]n computing the effective date of any order of the commission, the day the order was issued shall not be included, and the order is considered effective at 12:0[1]0 a.m. on the effective date designated in the order, whether or not the date is a Saturday, Sunday or legal holiday. If the effective date and the issuance date are the same, the order shall be effective at the date and time the order is issued by the commission.**

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

**(B) After the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect or for other good cause shown.**

*AUTHORITY: section 386.410, RSMo 2000.\* Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed \_\_\_\_\_.*

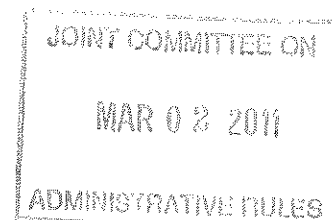
*\*Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

*State ex rel. Alton R. Co. v. Public Service Commission, 536 S.W.2d 766 (Mo. 1941). The effective date of an order is at the beginning of that date, rather than at its close.*

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

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

*NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed amendment with the*



Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the Commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

# **Small Business Regulatory Fairness Board**

## **Small Business Impact Statement**

Date: 10-14-10

Rule Number: 4 CSR 240-2.050 Computation of Time

Name of Agency Preparing Statement: Public Service Commission

Name of Person Preparing Statement: Nancy Dippell

Phone Number: 573-751-4393 Email: nancy.dippell@psc.mo.gov

Name of Person Approving Statement: Morris Woodruff, Chief Regulatory Law Judge, Public Service Commission

**Please describe the methods your agency considered or used to reduce the impact on small businesses:** This rule change will have a favorable impact, if any, on small business. Comments from practitioners and experience of the Commission with regard to small law firms practicing before the Commission were considered in proposing this amendment. The Commission held a roundtable discussion on November 30, 2010, and invited the public to comment informally on the draft of the proposed rules. The Commission subsequently incorporated some changes from that roundtable into the rules for clarity and ease of use.

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

This rule is amended to change the standard required to get an extension of time from "where the failure to act was the result of excusable neglect" to "for good cause shown." Because "excusable neglect" is included in "good cause" this should make it easier for small businesses to practice before the commission. Thus, this rule change should have a favorable impact, if any, on small business. Comments from practitioners and experience of the Commission with regard to small law firms practicing before the Commission were considered in proposing this amendment. The Commission held a roundtable discussion on November 30, 2010, and invited the public to comment informally on the draft of the proposed rules. The Commission subsequently incorporated some changes from that roundtable into the rules for clarity and ease of use.

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

None. No monetary benefit or detriment to any agency as a result of this rule.



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

None. There is no requirement for small business set out in this procedural rule.

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

None.

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

All individuals, large and small utilities, or any other entity appearing before the Commission will benefit from this rule amendment as it broadens the standard for granting an extension of time to file a pleading.

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

Yes\_\_\_ No\_X\_\_

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

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