

FILED
March 4, 2011
Data Center
Missouri Public
Service Commission



Robin Carnahan
Secretary of State

**Administrative Rules Division
Rulemaking Transmittal Receipt**

Rule ID: 12612
Date Printed: 3/2/2011
Rule Number: 4 CSR 240-2.062
Rulemaking Type: Proposed Rule
Date Submitted to Administrative Rules Division: 3/2/2011
Date Submitted to Joint Committee on Administrative Rules: 3/2/2011

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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RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-2.062

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, 9th Fl, Gov.Ofc Bldg, JC, MO

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☒ Proposed Rulemaking

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

☐ Order of Rulemaking

Effective Date for the Order

☐ Statutory 30 days OR Specific date

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

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

Small Business Regulatory Fairness Board (DED) Stamp

SMALL BUSINESS
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

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

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573-751-1847 (Fax Number)
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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 240-2.062 Required Notices for Telecommunications Companies and IVoIP or Video Service Providers

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 have an economic impact on telecommunications companies of approximately \$9250 in the aggregate per year to private companies and \$1531 per year to the Commission. 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: sections 386.250 and 386.410, RSMo 2000 and 392.420, RSMo Supp. 2009

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" being larger and more prominent than the last name "Dippell".

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

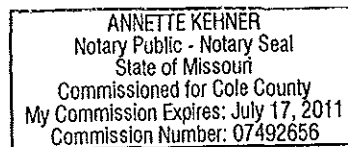
STATE OF MISSOURI)

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 rule, 4 CSR 240-2.062, is \$1531.33 per year 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 18th day of Feb, 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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SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED RULE

4 CSR 240-2.062 Required Notices for Telecommunications Companies and IVolP or Video Service Providers

PURPOSE: *This rule reflects the change in Section 392.420, RSMo, which provides that the Public Service Commission no longer has the authority to apply or enforce the provisions of Sections 392.270 through 392.340 in certain instances. Specifically, the Commission will no longer approve name changes or company reorganizations for telecommunications companies. The proposed rule replaces the application processes with notice requirements and specifies how video and IVolP service providers should notify the commission of name changes.*

(1) A telecommunications company that changes its name shall submit a letter to the commission notifying it of the change of name. The notice shall include:

(A) A statement, clearly setting out both the old name and the new name;
(B) Evidence of registration of the name change with the Missouri secretary of state;

(C) A copy of the notice sent to customers to inform them of the name change at or before the next billing cycle after any name change; and

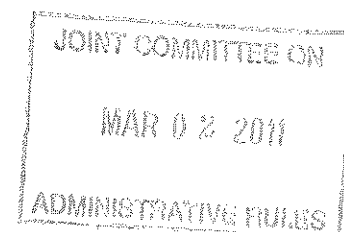
(D) An adoption notice and revised tariff title sheet reflecting the new name, to be effective ten days after the filing thereof. The adoption notice shall be substantially as follows: "The (name of telecommunications company) hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed by it, all tariffs filed with the Public Service Commission, State of Missouri, by the (name of telecommunications company) prior to (date)."

(2) A telecommunications company that reorganizes through a merger, asset sale, etc., shall submit a letter to the commission that describes the mechanics of the reorganization, as well as the following:

(A) If the company changes its name or adopts a fictitious name, all of the information required in section (1) above;

(B) A request to cancel any certificates or tariffs that will no longer be used (if applicable); and

(C) A statement that the company has reviewed its contacts in the commission's Electronic Filing and Information System (EFIS) and that they have been updated to reflect the reorganization.



(3) A provider of video service or interconnected voice over internet protocol (VoIP) service that changes its name shall notify the commission of that change. Notice may be made by one of the following methods:

- (A) Sending a letter to the commission as set forth in section (1) above; or
- (B) Submitting a Notice of Change Form; or
- (C) Submitting a revised Application Form.

(4) Notwithstanding any other provision of Chapter 2 and Chapter 3 of these rules, items required by this rule may be submitted by a nonattorney.

AUTHORITY: sections 386.250 and 386.410, RSMo 2000 and 392.420, RSMo Supp. 2009. Original rule filed _____.

PUBLIC ENTITY COST: This proposed rule is estimated to cost state agencies or political subdivisions one-thousand five-hundred thirty-one dollars (\$1531) per year for the life of the rule.

PRIVATE ENTITY COST: This proposed rule is estimated to cost private entities more nine-thousand two-hundred fifty dollars (\$9250) in the aggregate per year for the life of the rule.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed rule 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 rule 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 rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

Small Business Regulatory Fairness Board

Small Business Impact Statement

Date: 1-27-11

Rule Number: 4 CSR 240-2.062 Required Notices for Telecommunications Companies and IVoIP or Video Service Providers

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: Statutory changes in 2005 and 2008 deregulated certain telecommunications carriers and required the Commission to track video and IVoIP providers. Thus, these rules were developed to reduce the requirements for all types of telecommunications companies in the state of Missouri with regard to mergers and name changes and to require IVoIP and video service providers to notify the Commission of name changes. These types of companies are both large and small businesses operating in the state of Missouri.

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

The Commission Staff had informal discussions with numerous businesses over the last several years in trying to implement the statutory changes. These rules were developed with that experience and those comments in mind. In addition, this rule was circulated to several attorneys, in-house counsel and private firms, who regularly represent these types of businesses before the Commission for their comments. 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.

The fiscal estimate was that the rule would cost the agency approximately \$1531 per year. Because this rule has been moved from another section, and the

Commission has already been processing these types of filings, the agency will not experience any new costs.

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

Small telecommunications companies and small video and IVolP service providers will be affected by this rule if they propose to change their name or in the case of telecommunications companies, undergo a reorganization or merger.

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

The Commission estimates the rule will cost a total of \$9250 in the aggregate per year for all companies large and small to comply with this rule.

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

Telecommunications companies and video and IVolP service providers in the state of Missouri which change their names or undergo reorganization or merger will be required to comply with this rule. All customers of these telecommunications companies and video or IVolP service providers will benefit from the Commission having an accurate record of these companies.

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.

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Title 4 -- Department of Economic Development
Division Title: Division 240 – Public Service Commission
Chapter Title: Chapter 2 – Practice and Procedure**

Rule Number and Name:	4 CSR 240-2.062 Required Notices for Telecommunications Companies and IVoIP or Video Service Providers
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Public Service Commission	\$1531.33 per year for the life of the rule

III. WORKSHEET

3 paper telecommunications name changes X $(\$10.31 + \$76.27 + \$17.19) = \311.31

9 electronic telecommunications name changes X $(\$76.27 + \$17.19) = \$841.14$

3 electronic telecommunications "mergers" X $(\$76.27 + \$17.19) = \$280.38$

10 video or IVoIP name changes X $\$9.85 = \98.50

Total per year cost to the Commission \$1531.33 per year

IV. ASSUMPTIONS

- Twelve (12) telecommunications name changes were filed in FY 2009. Three (3) of these were submitted into the system by the Commission's Data Center personnel and nine (9) were submitted electronically into the Commission's Electronic Filing and Information System (EFIS).
- Three (3) telecommunications merger or reorganizations were filed in FY 2009.
- The number of telecommunications filings for name changes and reorganizations will remain the same each year for the life of the rule.
- If a paper telecommunications company filing is made and the Data Center must submit it into EFIS, it requires approximately forty-five (45) minutes of Data Center personnel time at \$13.75 per hour personnel expense to the

commission (\$10.31). In addition, commission telecommunications department staff and legal staff spend the following amount of time per name change or merger: Telecommunications Analyst II, 2.5 hours at \$18.61 per hour; Rate & Tariff Examiner Supervisor, 15 minutes at \$29.00 per hour; Senior Counsel, .5 hour at \$35.13 per hour; and Legal Secretary, 15 minutes at \$19.70 per hour (\$76.27 total other personnel cost).

- In addition, telecommunications name changes or mergers require additional Data Center processing costs even if filed electronically. This cost is estimated at \$17.19 (1.25 hours at \$13.75 per hour).
- The Data Center spends approximately \$6.88 (.5 hours at a personnel cost of \$13.75 per hour) to the Commission on a video or IVoIP service provider name change. Other commission personnel cost is approximately \$14.59 (.5 hours at an average pay of \$29.17 per hour).
- The number of VoIP name changes is estimated to be no more than ten (10) per year based on past experience which was not tracked.
- To process a video or IVoIP name change is expected to cost the Commission \$9.85 (.5 hours of commission personnel time at a cost of \$19.70 per hour).
- The life of the rule is unknown but is expected to be at least five years.
- The Commission would have experienced a greater cost in personnel time under the previous rule 4CSR 240-2.060, from which the telecommunications company portions of this rule was removed and promulgated as a new rule. In addition, the Commission will save personnel time having an accurate record of video and IVoIP providers because of its statutory duty to track these companies.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: Title 4 -- Department of Economic Development
Division Title: Division 240 – Public Service Commission
Chapter Title: Chapter 2 – Practice and Procedure**

Rule Number and Title:	4 CSR 240-2.062 Required Notices for Telecommunications Companies and IVoIP or Video Service Providers
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the 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:
Telecommunications Companies	15	\$8250 per year for the life of the rule
Video Service Providers	5	\$500 per year for the life of the rule
IVoIP service Providers	5	\$500 per year for the life of the rule

III. WORKSHEET

3 telecommunications merger notices X \$750 = \$2250
12 telecommunications name change notices X \$500 = \$6,000
10 IVoIP name change notices X \$100 = \$1000
Total company costs \$9250 per year for the life of the rule

IV. ASSUMPTIONS

- Twelve (12) telecommunications name changes were filed in FY 2009. Three (3) of these were submitted into the system by the Commission's Data Center personnel and nine (9) were submitted electronically into the Commission's Electronic Filing and Information System (EFIS).
- Three (3) telecommunications merger or reorganizations were filed in FY 2009.
- All the merger and reorganization notices for telecommunications companies will be filed by an attorney. Attorney fees for such filings will cost on average \$750.

- All of the name change notices for telecommunications companies will be made by nonattorneys or if made by attorneys will cost no more than an average of \$500 per filing.
- The number of telecommunications filings for name changes and reorganizations will remain the same each year for the life of the rule.
- The number of IVoIP name changes is estimated to be no more than ten (10) per year based on past experience which was not tracked.
- The IVoIP name change notices will be filed by nonattorneys at a cost of under \$100 to the company to compose a letter and mail or submit it electronically to the Commission.
- The life of the rule is unknown but is expected to be at least five years.
- Telecommunications companies were already complying with more stringent and more cumbersome requirements under 4 CSR 240-2.060 from which these provisions have been moved, thus it is believed that sections (1) and (2) of the rule require no new costs from those companies.