



Filed
August 08, 2011
Data Center
Missouri Public
Service Commission

Robin Carnahan
Secretary of State

**Administrative Rules Division
Rulemaking Transmittal Receipt**

Rule ID: 13061
Date Printed: 8/8/2011
Rule Number: 4 CSR 240-2.062
Rulemaking Type: Final Order Rule
Date Submitted to Administrative Rules Division: 8/8/2011
Date Submitted to Joint Committee on Administrative Rules: 7/6/2011

Name of Person to Contact with questions concerning this rule:

Content: Morris Woodruff

Phone: 1-2849

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Fax:

RuleDataEntry:

Phone:

Email:

Fax:

Included with Rulemaking:

Cover Letter

8/08/2011

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 240-2.062

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:

Changes were made to the title of the rule and to section (2). New section (3) was added. Old section (3) and section (4) were renumbered.

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Fairness Board (DED) Stamp

JCAR Stamp

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

Dear Secretary Carnahan,

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

CERTIFICATION OF ADMINISTRATIVE RULE

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

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 order of rulemaking, please contact me at the address and number below.

Sincerely,

A handwritten signature in black ink that reads "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

Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240 – Public Service Commission

Chapter 2 – Practice and Procedure

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ORDER OF RULEMAKING

SECRETARY OF STATE
ADMINISTRATIVE RULES

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 386.410, RSMo 2000 and 392.420, RSMo Supp. 2009, the commission adopts a rule as follows:

4 CSR 240-2.062 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on April 15, 2011 (36 MoReg 1046). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed rule was held May 19, 2011, and the public comment period ended May 16, 2011. One (1) written comment was received.

COMMENT: The staff of the commission submitted a comment with suggestions for amending this rule. Staff suggested that section (1) and section (2) should be amended to give telecommunications companies specific instructions for how to make their filings under this rule. In addition, staff recommended adding a statement to sections (1), (2), and (3) which would require an affirmative statement that the companies had reviewed their contact information on file with the commission. Staff also recommended that section (2) be amended to reflect that for certain types of companies no notice is required, and a clarification to section (3) regarding when notice is required. Staff suggested that subsection (3)(B) should be deleted as that form is not used for name changes. And finally, staff recommended that section (4) be deleted because it is confusing. Staff attached a draft of the rule with its suggested changes including changes to the title of the rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with most of staff's suggestions and will make changes to section (1), subsection (1)(C), section (2), and section (3). The commission will also add subsection (1)(E), create a new section (3), and renumber section (4) to reflect these changes. The commission disagrees with staff's changes to the rule which would require name changes to only be filed in the electronic filing and information system (EFIS) only. First, the commission will leave the ability to file by submitting the required information in paper at the commission's offices. And second, because technology changes rapidly and internal procedures utilizing that technology may also change it is not the best practice to require a specific method of electronic filing for a name change. The most important goal of this rule is for the commission to get notice that the companies have changed their name. Thus, the commission declines to make those specific changes. Finally, the commission will not delete section (4) as many filings at the commission specifically require an attorney under the

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rules. Therefore, it is less confusing to state that it is the commission's interpretation that an attorney is not required to submit these notices.

4 CSR 240-2.062 Required and Permitted Notices for Telecommunications Companies and IVoIP or Video Service Providers that Reorganize or Change Names

(1) A telecommunications company that changes its name shall notify the commission of its name change. 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 before or with the next bill after any name change;

(D) An adoption notice and revised tariff title sheet reflecting the new name, to be effective ten (10) 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)."; and

(E) A statement that the company has reviewed its contacts in the electronic filing and information system (EFIS) and that they have been updated to reflect the reorganization.

(2) A telecommunications company that reorganizes in such a way that its name, certificate(s) and tariff(s) remain unchanged is under no obligation to notify the commission of the reorganization. A telecommunications company that reorganizes through a merger, asset sale, etc., may notify the commission of the mechanics of the reorganization by submitting a written notice either in paper form or as a non-case related filing in EFIS and indicating that the matter is a merger or reorganization.

(3) Notwithstanding section (2) above, notification is mandatory in the following instances:

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

(B) If the reorganized company will no longer need any certificates or tariffs, it shall request that the commission cancel them; and

(C) If notice is required under (A) or (B), it shall be accompanied by a statement that the company has reviewed its contacts in EFIS and that they have been updated to reflect the reorganization.

(4) A provider of video service or interconnected voice over Internet protocol (IVoIP) service that changes its name shall notify the commission of that change. Notice may be made by one (1) of the following methods:

(A) Notify the commission as set forth in section (1) above;

or

(B) Submit a revised Application Form and a statement that the company has reviewed its contacts in EFIS and that they have been updated to reflect the reorganization.

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