

Jason Kander

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

RECEIVED
APR 01 2015
SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-28.040

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

COPY

Name of person to call with questions about this rule:

Content Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

Email address morris.woodruff@psc.mo.gov

Data Entry Chris Koenigsfeld Phone 573-751-4256 FAX 573-526-6010

Email address christine.koenigsfeld@psc.mo.gov

Interagency mailing address GOB 9th Floor

TYPE OF RULEMAKING ACTION TO BE TAKEN

- ☐ Emergency rulemaking, include effective date
☒ Proposed Rulemaking
☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration
☐ Request for Non-Substantive Change
☐ Statement of Actual Cost
☐ 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
APR 01 2015
RECEIVED

JCAR Stamp

JOINT COMMITTEE ON
APR 1 2015
ADMINISTRATIVE RULES



Commissioners

ROBERT S. KENNEY
Chairman

STEPHEN M. STOLL

WILLIAM P. KENNEY

DANIEL Y. HALL

SCOTT T. RUPP

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>

SHELLEY BRUEGGEMANN
General Counsel

MORRIS WOODRUFF
Secretary

WESS A. HENDERSON
Director of Administration
and Regulatory Policy

CHERLYN D. VOSS
Director of Regulatory Review

KEVIN A. THOMPSON
Chief Staff Counsel

April 1, 2015

Jason Kander
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-28.040 Reporting Requirements

Dear Secretary Kander,

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 fifty 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 fifty 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.

Mr. Jason Kander
April 1, 2015
Page 2

Statutory Authority: sections 386.040, 386.250, 386.310, and 392.461, RSMo 2000 and 392.450, RSMo Supp. 2013

If there are any questions regarding the content of this proposed rulemaking, please contact:

Morris L. Woodruff, Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-2849
morris.woodruff@psc.mo.gov



Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

AFFIDAVIT

PUBLIC COST

STATE OF MISSOURI)

COUNTY OF COLE)

I, Mike Downing, 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 to rule, 4 CSR 240-28.040, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

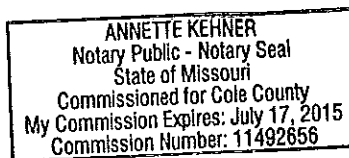
Mike Downing

Director ✓

Department of Economic Development

Subscribed and sworn to before me this 12th day of March, 2014, I am
commissioned as a notary public within the County of Cole, State of
Missouri, and my commission expires on 17 July 2015

Notary Public



**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 28 –Telecommunications, I-VoIP, Video Services**

COPY RECEIVED

APR 01 2015

SECRETARY OF STATE
ADMINISTRATIVE RULES

4 CSR 240-28.040 Reporting Requirements

PURPOSE: This rule identifies reporting requirements for companies authorized to provide telecommunications, IVoIP, video, payphone or shared tenant services in Missouri.

(1) Company contacts. Any company receiving certification or registration from the Commission to provide telecommunications, IVoIP, video, payphone or shared tenant services shall maintain an updated list of company contacts in EFIS.

(2) Annual Report. A company certificated to provide telecommunications service or registered to provide IVoIP service shall submit an annual report to the commission. A company providing shared tenant services or payphone services is not required to submit an annual report. Annual report requirements are listed below:

(A) All companies shall use the annual report form provided by the commission on the commission's website. Failure to receive the annual report form does not relieve a company of its obligation to file the annual report. All annual report forms shall contain a notarized affidavit verifying the accuracy of the annual report information and confirming the company's EFIS contact information and disaster recovery plan contacts are current.

(B) The deadline for a company to submit a completed annual report is April 15th.

1. A company that is unable to meet the April 15 submission date deadline may request an extension of this deadline by filing a letter through EFIS prior to the deadline. The letter shall include an explanation for failing to meet the deadline and the date by which the annual report will be filed.

A. If a request for extension is made prior to the filing deadline, a 30-day extension will automatically be granted.

B. Requests to file an annual report after May 15 will be handled on a case-by-case basis depending on the explanation contained in the request.

2. A company that misses the April 15 filing deadline and has not requested an extension shall be considered delinquent and appropriate actions may be pursued.

(C) Annual reports should be submitted electronically into the EFIS as a non-case related submission. Please refer to EFIS's Help section for assistance in determining the specific filing designation.

(D) A company shall separately submit an annual report for each certificate or registration held by the company.

(E) A company may request confidential status for some or all of an annual report using the procedures described in the annual report instructions.

(3) Statement of Revenue Report. All IVoIP providers and companies certificated to provide telecommunications services, including payphone providers and shared tenant service providers, shall submit a Statement of Revenue. Statement of Revenue requirements are listed below:

JOINT COMMITTEE ON
APR 1 2015
ADMINISTRATIVE RULES

(A) All companies shall use the annual report form provided by the commission on the commission's website.

1. A Notary Public shall witness and sign the form.

(B) The deadline for submitting a completed Statement of Revenue report is March 31st. The commission annually notifies companies of the form on which to submit a statement of revenue during the month of January.

(C) Companies are encouraged to submit Statement of Revenue forms electronically to the commission's EFIS as a non-case related submission; however, a company may also submit a Statement of Revenue form by mailing the report to the commission's Budget and Fiscal Services Department; P.O. Box 360; Jefferson City Missouri 65102. If filing into EFIS please refer to EFIS's Help section for assistance in determining the specific filing designation.

(D) The commission shall confidentially maintain Statements of Revenue as provided for in Section 386.480 RSMo.

(4) Net Jurisdictional Revenue Report. A company certificated to provide telecommunications service or registered to provide IVoIP service shall submit a net jurisdictional revenue report to the Missouri universal service fund administrator. This report requires a company to identify its net jurisdictional revenue as that term is defined in this chapter. Listed below are clarifications about net jurisdictional revenue and the net jurisdictional report:

(A) Net jurisdictional revenue does not include revenue from wholesale services, payphone operations, taxes or uncollectibles.

(B) IVoIP providers unable to distinguish between intrastate versus interstate jurisdictions may determine net jurisdictional revenue by applying a safe harbor percentage to total revenues. The applied safe harbor percentage must correspond to the FCC's safe harbor percentage. For example if the FCC has established a safe harbor interstate percentage of sixty-four and nine-tenths percent (64.9%) then an IVoIP provider may apply a safe harbor intrastate percentage of thirty-five and one-tenth percent (35.1%).

(C) A company applying a bundled rate for a telecommunications or IVoIP service with a package of services that are not considered to be telecommunications or IVoIP services may report net jurisdictional revenue by applying either of the following two methods:

1. Report revenue based on the unbundled service offering price for telecommunications or IVoIP service; or

2. Elect to report all bundled revenues as net jurisdictional revenue.

IVoIP providers unable to distinguish between intrastate versus interstate jurisdictions may apply the safe harbor provision described in Subsection (B) to either of these two methods.

(D) Revenue associated with non-switched private line service should be considered net jurisdictional revenue; however, revenue associated with special access service should not be considered net jurisdictional revenue. A company offering non-switched private line service to a customer may consider all of the customer's revenue to be within the interstate jurisdiction if ten percent (10%) or more of the customer's private line network traffic is considered to be interstate traffic.

(E) A company solely certificated to provide payphone service or shared tenant services is not required to submit a net jurisdictional revenue report.

(F) Additional information regarding the net jurisdictional report is contained in commission rule 4 CSR 240-31.060(3).

(5) Outage Report. A telecommunications company shall notify the commission of any service outage affecting three hundred (300) or more customers and lasting thirty (30) minutes or longer. Companies solely certificated to provide private shared tenant service or payphone service are not required to submit outage reports. Outage report requirements are listed below:

(A) A company reporting an outage shall provide the following information:

1. Brief description of the outage;
2. Number of customers affected by the outage;
3. Date/time outage began; and
4. Expected date/time restoration of service.

(B) A company shall report an outage to the commission by 5pm of the first business day following discovery of an outage.

(C) An outage report may be made by telephone or facsimile to the manager of the commission's telecommunications unit, or the report may be electronically filed into EFIS as a non-case related submission.

(D) Outage reports shall be maintained as confidential.

(6) Disaster Recovery Plan. A company certificated to provide telecommunications service shall file a disaster recovery plan with the commission. A company solely certificated to provide payphone service or shared tenant services is not required to submit a disaster recovery plan. Disaster recovery plan requirements are listed below:

(A) A company's disaster recovery plan filing with the Missouri Public Service Commission shall contain the following information:

1. A statement the company has written procedures identifying the steps to assume command and control in the event of a disaster;
2. A statement the company has written procedures for assessing damages in the event of a disaster;
3. A statement the company has written procedures for restoring service including a priority list for restoring service to critical customers and options for restoring service; and
4. The name, phone number and email address of a primary person(s) the commission staff may contact in the event of a disaster or to obtain additional information about the company's disaster recovery plan. If possible provide similar information for a secondary contact.

(B) A disaster recovery plan shall be filed within twelve (12) months of initiating service and be updated on a continual basis.

(C) A disaster recovery plan shall be filed into EFIS as a non-case related submission. Please refer to EFIS's Help section for assistance in determining the specific filing designation.

(D) Disaster recovery plans shall be maintained as confidential.

(7) Bankruptcy Notification. A company shall notify the commission if the company has filed for bankruptcy. Bankruptcy notification requirements are listed below:

(A) The company's notice shall contain the following information:

1. Bankruptcy case number;
2. Bankruptcy filing date;
3. Bankruptcy chapter number; and
4. Bankruptcy court.

(B) In a subsequent filing with the commission the company shall submit a copy of the court's order resolving the bankruptcy.

(C) Notice shall be provided to the commission no later than thirty (30) days after filing for bankruptcy. The subsequent submission containing a copy of the court's order resolving the bankruptcy shall be submitted within thirty (30) days of the court's order.

(D) Bankruptcy notification filings shall be submitted electronically to EFIS as a non-case related submission. Please refer to EFIS's Help section for assistance in determining the specific filing designation.

(E) Bankruptcy notices are classified as public documents in the commission's EFIS unless the company requests the notice remain confidential.

AUTHORITY: Sections 386.040, 386.250 and 386.310, 392.461, RSMo 2000, and 392.450 RSMo (Supp. 2013.).

Original authority: 386.040, RSMo 1939; 386.250 RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 386.310 RSMo 1939, amended 1979, 1989, 1996; 392.461, RSMo, and 392.450, RSMo (Supp. 2013).

PUBLIC COST: *This proposed rule will not cost state agencies or political subdivisions more than \$500.00 in the aggregate.*

PRIVATE COST: *This proposed rule will not cost private entities more than \$500.00 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 rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before June 29, 2015, and should include a reference to Commission Case No. TX-2015-0097. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for July 6, 2015, at 10:00 a.m., in Room 305 of the Governor Office Building, 200 Madison St., 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 or TDD Hotline 1-800-829-7541.*

Small Business Regulator Fairness Board

Small Business Impact Statement

Date: October 28, 2014

Rule Number: 4 CSR 240-28.040

Name of Agency Preparing Statement: Missouri Public Service Commission

Name of Person Preparing Statement: Kari Salsman

Phone Number: 573 526-5630

Email: kari.salsman@psc.mo.gov

Name of Person Approving Statement: Natelle Dietrich

Please describe the methods your agency considered or used to reduce the impact on small businesses (*examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique*).

Proposed rule simplifies and streamlines rules, which will reduce any impact on small businesses.

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

The Commission held workshops and solicited informal comments from affected entities, including small businesses.

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.

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

Telecommunications companies and IVolP providers will be required to comply with the proposed rule.

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

N/A

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 IVoIP providers.

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.