

FILED³

DEC 10 2001

AX-2002-158

Administrative Rules Stamp

RECEIVED

DEC 07 2001

SECRETARY OF STATE
ADMINISTRATIVE RULES

MATT BLUNT
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

Missouri Public
Service Commission

A "SEPARATE" rule transmittal sheet must be used for EACH individual rulemaking.

A. Rule Number 4 CSR 240-2.115
Diskette File Name 2.115 proposed amendment (Word 2000 format)
Name of Person to call with questions about this rule:
Context Kevin A. Thompson Phone 573-751-6514 FAX 573-526-6010
Data Entry Judy Pope Phone 573-751-6526 FAX 573-526-6010
Interagency Mailing Address Governor Office Building, 200 Madison St., Suite 900, Jefferson City, MO

Statutory Provision for Rulemaking
Authority Section 386.410 Provide Most Current RSMo Year 2000

Date Filed With the Joint Committee on Administrative Rules Exempt per Sections 536.024 and 536.037, RSMo 2000, and Executive Order No. 97-97 (June 27, 1997)

B. CHECK, IF INCLUDED: FORMS, List by Mo-Form Number, # of Pages
 Cover Letter _____
 Affidavit _____
_____ Cost Statements _____
_____ Public Entity Fiscal Note OTHER Takings Analysis
_____ Private Entity Fiscal Note Small Business Impact Analysis

C. RULEMAKING ACTION TO BE TAKEN
_____ Emergency Rulemaking, Must Specify Effective Date
 Proposed Rulemaking (Amendment 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.)

RULE TRANSMITTAL (PAGE 2)

- E. ORDER OF RULEMAKING: Rule Number (not applicable)
- 1a. Effective Date for the Order
Statutory 30 days _____ or later specific date _____
- 1b. Does the Order of Rulemaking contain changes to the rule text?
YES _____ 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.

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.



Commissioners
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
SHEILA LUMPE
STEVE GAW
BRYAN FORBIS

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>

December 6, 2001

ROBERT J. QUINN, JR.
Executive Director
WESS A. HENDERSON
Director, Utility Operations
ROBERT SCHALLENBERG
Director, Utility Services
DONNA M. PRENGER
Director, Administration
DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

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

ATTENTION: Administrative Rules Division

I do hereby certify that the attached are accurate and complete copies of the Proposed Amendment lawfully submitted by the Missouri Public Service Commission for filing this 6th day of December, 2001, and that a takings analysis and small business impact analysis have occurred.

Rule: 4 CSR 240-2.115 Stipulations and Agreements

Statutory authority: Section 386.410, RSMo 2000

Missouri Public Service Commission Case No.: AX-2002-158

If there are any questions, please contact: Kevin A. Thompson
Deputy Chief Regulatory Law Judge
Missouri Public Service Commission
Governor Office Building
200 Madison Street, Suite 900
Post Office Box 360
Jefferson City, Missouri 65102
(573) 751-6514

BY THE COMMISSION


Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

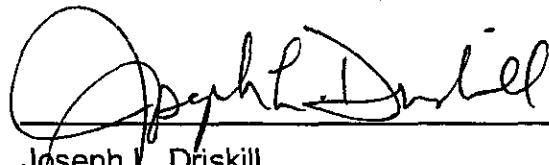
DHR:KAT:jp

Enclosures: Proposed Amendment (hard copy plus electronic copy in Word 2000 format on 3-1/2" disk), transmittal form, affidavit, takings analysis, and small business impact analysis

AFFIDAVIT


STATE OF MISSOURI }
COUNTY OF COLE }

I, Joseph L. Driskill, Director of the Department of Economic Development, first being duly sworn on my oath state that it is my opinion that the cost of the **Proposed Amendment to 4 CSR 240-2.115, Nonunanimous Stipulations and Agreements**, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Joseph L. Driskill
DIRECTOR
Department of Economic Development

Subscribed and sworn to before me this 29th day of November,
2001. I am commissioned as a notary public within the County of
Callaway, State of Missouri, and my commission expires on
September 21, 2004.


NOTARY PUBLIC

JULIE A ATCHISON
NOTARY PUBLIC STATE OF MISSOURI
CALLAWAY COUNTY
MY COMMISSION EXP 09/21/04

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

RECEIVED

DEC 07 2001

SECRETARY OF STATE
ADMINISTRATIVE HOURS

PROPOSED AMENDMENT

4 CSR 240-2.115 [Nonunanimous] Stipulations and Agreements

PURPOSE: The purpose of this amendment is to clarify the proceedings applicable to, and the effects of, stipulations and agreements in Commission practice.

(1) [A nonunanimous stipulation and agreement is any stipulation and agreement which is entered into by fewer than all parties and where one (1) or more parties requests a hearing of one (1) or more issues. If no party requests a hearing, the commission may treat the stipulation and agreement as a unanimous stipulation and agreement.] **Stipulations and Agreements:**

(A) The parties may at any time file a stipulation and agreement as a proposed resolution of all or any part of a contested case. Any such stipulation and agreement must contain stipulated facts sufficient to support the resolution proposed by the parties. A stipulation and agreement shall be filed as a pleading.

(B) The commission may resolve all or any part of a contested case on the basis of a stipulation and agreement.

(2) [If a hearing is requested, the commission shall grant the request.] **Nonunanimous Stipulations and Agreements:**

(A) A nonunanimous stipulation and agreement is any stipulation and agreement which is entered into by fewer than all of the parties.

(B) Each party shall have seven (7) days from the filing of a nonunanimous stipulation and agreement to file an objection to the nonunanimous stipulation and agreement. Failure to file a timely objection shall constitute a full waiver of that party's right to a hearing. A conditional assent to a nonunanimous stipulation and agreement shall be regarded as a non-conditional assent and not as an objection.

(C) If no party timely objects to a nonunanimous stipulation and agreement, the commission may treat the nonunanimous stipulation and agreement as a unanimous stipulation and agreement.

(D) A nonunanimous stipulation and agreement to which a timely objection has been filed shall be considered to be merely a position of the signatory parties to the stipulated position.

(E) If a nonunanimous stipulation and agreement resolves only issues as to which a party has stated no position and filed no testimony, such party need not join in the nonunanimous stipulation and agreement for it to be considered unanimous and an objection filed by such party shall have no effect.

[(3) A nonunanimous stipulation and agreement shall be filed as a pleading. Each party shall have seven (7) days from the filing of the nonunanimous stipulation and agreement to file a request for a hearing. Failure to file a timely request for hearing shall constitute a full waiver of that party's right to a hearing.]

AUTHORITY: section 386.410, RSMo [Supp. 1998] 2000. Original rule filed June 9, 1987, effective Sept 15, 1987. Rescinded and readopted: Filed August 24, 1999, effective April 30, 2000. Amended: Filed Dec. 6, 2001.*

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

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 \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. Comments should refer to Case No. AX-2002-158 and be filed with an original and six (6) copies. No public hearing is scheduled.*



Commissioners
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
SHEILA LUMPE
STEVE GAW

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>

November 1, 2001

ROBERT J. QUINN, JR.
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

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102

RE: Proposed Amendment to 4 CSR 240-2.115 Nonunanimous Stipulations and Agreements

Dear Mr. Roberts:

Executive Order 93-13 requires state agencies to undertake a "takings analysis" of each proposed rule or regulation in light of the United States Supreme Court decision in *Lucas v. South Carolina Coastal Council*, 112 S. Ct. 2886 (1992). Pursuant to that order, I have undertaken a "takings analysis" of the above-referenced proposed rulemaking. In *Lucas*, the Court held that state regulation depriving an owner of real property of all economically beneficial use of that property constitutes a "taking" under the Fifth and Fourteenth Amendments of the U.S. Constitution, for which the property owner must be compensated. The Court also held that when state regulations compel a property owner to suffer a permanent physical invasion of his/her property, such an invasion is compensable.

The proposed amendments to this rule clarify the proceedings applicable to, and the effects of, stipulations and agreements in Public Service Commission practice.

Amending 4 CSR 240-2.115 does not implicate the takings clause of the U.S. Constitution, because the rule does not involve the taking of real property.

Mr. Dale Hardy Roberts
Page two
November 1, 2001

Please let me know if you have any questions on this issue.

Very truly yours,

A handwritten signature in black ink, appearing to read 'KAT', with a long horizontal flourish extending to the right.

Kevin A. Thompson
Deputy Chief Regulatory Law Judge

KAT:jp



Commissioners
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
SHEILA LUMPE
STEVE GAW

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>

ROBERT J. QUINN, JR.
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

November 1, 2001

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102

RE: Proposed Amendment to 4 CSR 240-2.115 Nonunanimous Stipulations and Agreements

Dear Mr. Roberts:

Executive Order 96-18 requires state agencies to determine whether a proposed rulemaking will have direct economic impact on small businesses of five hundred dollars or more in the aggregate. A small business is defined in the Executive Order as an independently owned and operated business entity that employs fifty or fewer full-time employees.

The purpose of amending 4 CSR 240-2.115 is to clarify the proceedings applicable to, and the effects of, stipulations and agreements in Public Service Commission practice. The amendments are not estimated to have a direct economic impact on small businesses of five hundred dollars or more in the aggregate.

Please let me know if you have any questions on this issue.

Very truly yours,

A handwritten signature in black ink, appearing to read "KAT", with a long horizontal flourish extending to the right.

Kevin A. Thompson
Deputy Chief Regulatory Law Judge

KAT:jp

MEMORANDUM

FILED³


DEC 10 2001

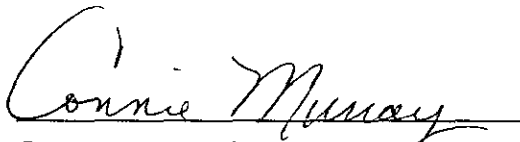
Missouri Public
Service Commission

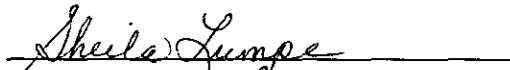
TO: Dale Hardy Roberts, Secretary
DATE: December 6, 2001
RE: Authorization to File Proposed Amendment With the Office of Secretary of State
CASE NO: AX-2002-158

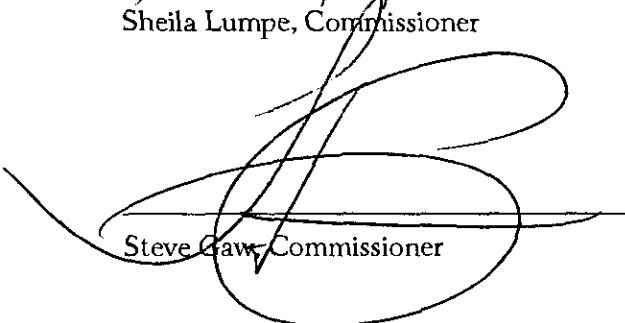
The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file a Proposed Amendment with the Office of Secretary of State, to wit:

4 CSR 240-2.115 Stipulations and Agreements


Kelvin L. Simmens, Chair


Connie Murray, Commissioner


Sheila Lumpe, Commissioner


Steve Gaw, Commissioner


Bryan Forbis, Commissioner

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

PROPOSED AMENDMENT

4 CSR 240-2.115 [Nonunanimous] Stipulations and Agreements

PURPOSE: The purpose of this amendment is to clarify the proceedings applicable to, and the effects of, stipulations and agreements in Commission practice.

(1) [A nonunanimous stipulation and agreement is any stipulation and agreement which is entered into by fewer than all parties and where one (1) or more parties requests a hearing of one (1) or more issues. If no party requests a hearing, the commission may treat the stipulation and agreement as a unanimous stipulation and agreement.] **Stipulations and Agreements:**

(A) The parties may at any time file a stipulation and agreement as a proposed resolution of all or any part of a contested case. Any such stipulation and agreement must contain stipulated facts sufficient to support the resolution proposed by the parties. A stipulation and agreement shall be filed as a pleading.

(B) The commission may resolve all or any part of a contested case on the basis of a stipulation and agreement.

(2) [If a hearing is requested, the commission shall grant the request.] **Nonunanimous Stipulations and Agreements:**

(A) A nonunanimous stipulation and agreement is any stipulation and agreement which is entered into by fewer than all of the parties.

(B) Each party shall have seven (7) days from the filing of a nonunanimous stipulation and agreement to file an objection to the nonunanimous stipulation and agreement. Failure to file a timely objection shall constitute a full waiver of that party's right to a hearing. A conditional assent to a nonunanimous stipulation and agreement shall be regarded as a non-conditional assent and not as an objection.

(C) If no party timely objects to a nonunanimous stipulation and agreement, the commission may treat the nonunanimous stipulation and agreement as a unanimous stipulation and agreement.

(D) A nonunanimous stipulation and agreement to which a timely objection has been filed shall be considered to be merely a position of the signatory parties to the stipulated position.

(E) If a nonunanimous stipulation and agreement resolves only issues as to which a party has stated no position and filed no testimony, such party need not join in the nonunanimous stipulation and agreement for it to be considered unanimous and an objection filed by such party shall have no effect.

[(3) A nonunanimous stipulation and agreement shall be filed as a pleading. Each party shall have seven (7) days from the filing of the nonunanimous stipulation and agreement to file a request for a hearing. Failure to file a timely request for hearing shall constitute a full waiver of that party's right to a hearing.]

AUTHORITY: section 386.410, RSMo [Supp. 1998] 2000. Original rule filed June 9, 1987, effective Sept 15, 1987. Rescinded and readopted: Filed August 24, 1999, effective April 30, 2000. Amended: Filed Dec. 6, 2001.*

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

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

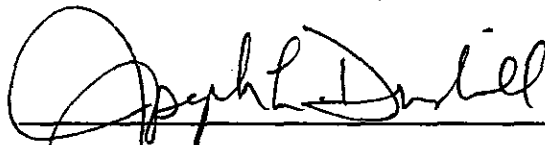
PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. Comments should refer to Case No. AX-2002-158 and be filed with an original and six (6) copies. No public hearing is scheduled.*

AFFIDAVIT


STATE OF MISSOURI }
COUNTY OF COLE }

I, Joseph L. Driskill, Director of the Department of Economic Development, first being duly sworn on my oath state that it is my opinion that the cost of the **Proposed Amendment to 4 CSR 240-2.115, Nonunanimous Stipulations and Agreements**, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Joseph L. Driskill
DIRECTOR
Department of Economic Development

Subscribed and sworn to before me this 29th day of November,
2001. I am commissioned as a notary public within the County of
Callaway, State of Missouri, and my commission expires on
September 21, 2004.


NOTARY PUBLIC

JULIE A ATCHISON
NOTARY PUBLIC STATE OF MISSOURI
CALLAWAY COUNTY
MY COMMISSION EXP 9/21/04



Commissioners
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
SHEILA LUMPE
STEVE GAW

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>

ROBERT J. QUINN, JR.
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

November 1, 2001

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102

RE: Proposed Amendment to 4 CSR 240-2.115 Nonunanimous Stipulations and Agreements

Dear Mr. Roberts:

Executive Order 96-18 requires state agencies to determine whether a proposed rulemaking will have direct economic impact on small businesses of five hundred dollars or more in the aggregate. A small business is defined in the Executive Order as an independently owned and operated business entity that employs fifty or fewer full-time employees.

The purpose of amending 4 CSR 240-2.115 is to clarify the proceedings applicable to, and the effects of, stipulations and agreements in Public Service Commission practice. The amendments are not estimated to have a direct economic impact on small businesses of five hundred dollars or more in the aggregate.

Please let me know if you have any questions on this issue.

Very truly yours,

A handwritten signature in black ink, appearing to read "KAT", with a long horizontal flourish extending to the right.

Kevin A. Thompson
Deputy Chief Regulatory Law Judge

KAT:jp



Commissioners
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
SHEILA LUMPE
STEVE GAW

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>

November 1, 2001

ROBERT J. QUINN, JR.
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

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102

RE: Proposed Amendment to 4 CSR 240-2.115 Nonunanimous Stipulations and Agreements

Dear Mr. Roberts:

Executive Order 93-13 requires state agencies to undertake a "takings analysis" of each proposed rule or regulation in light of the United States Supreme Court decision in *Lucas v. South Carolina Coastal Council*, 112 S. Ct. 2886 (1992). Pursuant to that order, I have undertaken a "takings analysis" of the above-referenced proposed rulemaking. In *Lucas*, the Court held that state regulation depriving an owner of real property of all economically beneficial use of that property constitutes a "taking" under the Fifth and Fourteenth Amendments of the U.S. Constitution, for which the property owner must be compensated. The Court also held that when state regulations compel a property owner to suffer a permanent physical invasion of his/her property, such an invasion is compensable.

The proposed amendments to this rule clarify the proceedings applicable to, and the effects of, stipulations and agreements in Public Service Commission practice.

Amending 4 CSR 240-2.115 does not implicate the takings clause of the U.S. Constitution, because the rule does not involve the taking of real property.

Mr. Dale Hardy Roberts
Page two
November 1, 2001

Please let me know if you have any questions on this issue.

Very truly yours,

A handwritten signature in black ink, appearing to read 'K. Thompson', with a long horizontal flourish extending to the right.

Kevin A. Thompson
Deputy Chief Regulatory Law Judge

KAT:jp

FILED³

DEC 1 0 2001



Missouri Public
Service Commission

ROBERT J. QUINN, JR.
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

Commissioners
KELVIN L. SIMMONS
Chair

CONNIE MURRAY

SHEILA LUMPE

STEVE GAW

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102

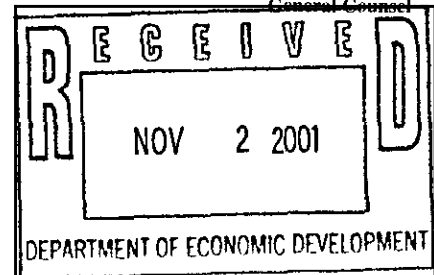
573-751-3234

573-751-1847 (Fax Number)

<http://www.psc.state.mo.us>

November 1, 2001

Mr. Joseph L. Driskill, Director
Department of Economic Development
Harry S Truman State Office Building
301 West High Street
Jefferson City, Missouri 65109



RE: Affidavit for Proposed Amendment to 4 CSR 240-2.115 – Nonunanimous
Stipulations and Agreements
P.S.C. Case No. AX-2002-158

Dear Mr. Driskill:

As required by statute, attached for your signature is an affidavit for a Proposed Amendment to 4 CSR 240-2.115, Stipulations and Agreements, of the Public Service Commission rules. A copy of the Proposed Amendment is also enclosed, as well as copies of the takings and small business impact analyses.

If you have any questions, please feel free to contact me at 573-751-6514.

Very truly yours,

Kevin A. Thompson
Deputy Chief Regulatory Law Judge

KAT:jp

Enclosures: Affidavit for 4 CSR 240-2.115 Stipulations and Agreements
Proposed Amendment - 4 CSR 240-2. 115 Stipulations and Agreements
Takings Analysis
Small Business Impact Analysis

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

PROPOSED AMENDMENT

4 CSR 240-2.115 [Nonunanimous] Stipulations and Agreements

PURPOSE: The purpose of this amendment is to clarify the proceedings applicable to, and the effects of, stipulations and agreements in Commission practice.

(1) [A nonunanimous stipulation and agreement is any stipulation and agreement which is entered into by fewer than all parties and where one (1) or more parties requests a hearing of one (1) or more issues. If no party requests a hearing, the commission may treat the stipulation and agreement as a unanimous stipulation and agreement.] **Stipulations and Agreements:**

(A) The parties may at any time file a stipulation and agreement as a proposed resolution of all or any part of a contested case. Any such stipulation and agreement must contain stipulated facts sufficient to support the resolution proposed by the parties. A stipulation and agreement shall be filed as a pleading.

(B) The commission may resolve all or any part of a contested case on the basis of a stipulation and agreement.

(2) [If a hearing is requested, the commission shall grant the request.] **Nonunanimous Stipulations and Agreements:**

(A) A nonunanimous stipulation and agreement is any stipulation and agreement which is entered into by fewer than all of the parties.

(B) Each party shall have seven (7) days from the filing of a nonunanimous stipulation and agreement to file an objection to the nonunanimous stipulation and agreement. Failure to file a timely objection shall constitute a full waiver of that party's right to a hearing. A conditional assent to a nonunanimous stipulation and agreement shall be regarded as a non-conditional assent and not as an objection.

(C) If no party timely objects to a nonunanimous stipulation and agreement, the commission may treat the nonunanimous stipulation and agreement as a unanimous stipulation and agreement.

(D) A nonunanimous stipulation and agreement to which a timely objection has been filed shall be considered to be merely a position of the signatory parties to the stipulated position.

(E) If a nonunanimous stipulation and agreement resolves only issues as to which a party has stated no position and filed no testimony, such party need not join in the nonunanimous stipulation and agreement for it to be considered unanimous and an objection filed by such party shall have no effect.

[(3) A nonunanimous stipulation and agreement shall be filed as a pleading. Each party shall have seven (7) days from the filing of the nonunanimous stipulation and agreement to file a request for a hearing. Failure to file a timely request for hearing shall constitute a full waiver of that party's right to a hearing.]

AUTHORITY: section 386.410, RSMo [Supp. 1998] 2000. Original rule filed June 9, 1987, effective Sept 15, 1987. Rescinded and readopted: Filed August 24, 1999, effective April 30, 2000. Amended: Filed Nov. [REDACTED], 2001.*

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

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 \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before [DATE]. Comments should refer to Case No. AX-2002-158 and be filed with an original and fourteen (14) copies. No public hearing is scheduled.