

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
October 17, 2001**

CASE NO: AX-2002-66

Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Enclosed find certified copy of an PROPOSED AMENDMENT in the above-numbered case(s).

Sincerely,

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

Boldface text indicates new matter.

[Bracketed text indicates matter being deleted.]

FILED

Office 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT

Division 240—Public Service Commission

OCT 17 2001 Chapter 2—Practice and Procedure

PROPOSED AMENDMENT

Missouri Public
Service Commission

AX-2002-166

4 CSR 240-2.080 Pleadings, Filing, and Service. The commission is amending sections (8) and (11)-(21), deleting section (10), and renumbering sections (11)-(21).

PURPOSE: *These amendments allow parties before the Missouri Public Service Commission to make filings in an electronic format. The amendments eliminate the requirement for parties to file multiple paper copies if the party chooses to file in an electronic format.*

The amendments also allow for service between parties by electronic means. The amendment to former section (12) clarifies the time when a pleading or brief shall be officially stamped "filed" by the commission. Finally, former section (10) is deleted because it is redundant and the remaining sections are renumbered.

(8) Any person filing a pleading or a brief shall file with the secretary of the commission **either:**

(A) **One (1) paper** original and eight (8) **paper** copies of the pleading; or

(B) **An electronic copy of the pleading or brief as permitted elsewhere in these rules.**

[(10) Any person filing a pleading which initiates a formal complaint at the commission or filing a pleading in a formal complaint case shall file one (1) original or duplicate original and eight (8) copies of the pleading with the secretary of the commission unless otherwise ordered by the commission.]

[(11)] (10) The party filing a pleading or brief shall serve each other party a copy of the pleading or brief and cover letter. Any party may contact the secretary of the commission for the names and addresses of the parties in a case.

*[(12)] (11) The date of filing shall be the date the pleading or brief is stamped filed by the secretary of the commission. **Pleadings or briefs received after 4:00 p.m. will be stamped filed the next day the commission is regularly open for business.***

[(13)] (12) Pleadings and briefs in every instance shall display on the cover or first page the case number and the title of the case. In the event the title of a case contains more than one (1) name as applicants, complainants or respondents, it shall be sufficient to show only the first of these names as it appears in the first document commencing the case, followed by an appropriate abbreviation (et al.) indicating the existence of other parties. Unless a case is consolidated, pleadings or briefs shall be filed with only one (1) case number and title thereon.

*[(14)] (13) Pleadings and briefs **that are not electronically filed** shall be bound at the top or at an edge, shall be typewritten or printed upon white, eight and one-half by eleven-inch (8 1/2" × 11") paper. Attachments to pleadings or briefs shall be annexed and folded to eight and one-half by eleven-inch (8 1/2" × 11") size whenever practicable. Printing on both sides of the page is encouraged. Lines shall be double-spaced, except that footnotes and quotations in excess of three (3) lines may be single-spaced. Reproduction of any of these documents may be by any process provided all copies are clear and permanently legible. **Electronically filed pleadings or briefs shall be formatted in the same manner as paper filings.***

*[(15)] (14) Pleadings and briefs which are not in substantial compliance with this rule, applicable statutes or commission orders shall not be accepted for filing. **In addition, filings will be scanned for computer viruses before being uploaded into the commission's electronic system and may not be accepted if the filing is infected.** The secretary of the commission may return these pleadings or briefs with a concise explanation of the deficiencies and the reasons for not accepting them for filing. Tendered filings which have been rejected shall not be entered on the commission's docket. The mere fact of filing shall not constitute a waiver of any noncompliance with these rules and the commission may require amendment of a pleading or entertain appropriate motions in connection with the pleading.*

[[16]] (15) Parties shall be allowed not more than ten (10) days from the date of filing in which to respond to any pleading unless otherwise ordered by the commission.

[[17]] (16) Any party seeking expedited treatment in any case shall include in the title of the pleading the words "Motion for Expedited Treatment." The pleading shall also set out with particularity the following:

- (A) The date by which the party desires the commission to act;
- (B) The harm that will be avoided, or the benefit that will accrue, including a statement of the negative effect, or that there will be no negative effect, on the party's customers or the general public, if the commission acts by the date desired by the party; and
- (C) That the pleading was filed as soon as it could have been or an explanation why it was not.

[[18]] (17) Methods of Service.

(A) Any person entitled by law may serve a document on a represented party by—

- 1. Delivering it to the party's attorney;
- 2. Leaving it at the office of the party's attorney with a secretary, clerk or attorney associated with or employed by the attorney served;
- 3. Mailing it to the last known address of the party's attorney;
[or]
- 4. [Facsimile transmission to the current facsimile machine of] Transmitting it by facsimile machine to the party's attorney[.]; or
- 5. Transmitting it to the e-mail address of the party's attorney.

(B) Any person entitled by law may serve a document on an unrepresented party by—

- 1. Delivering it to the party; or
 - 2. Mailing it to the party's last known address.
- (C) Completion of Service.
- 1. Service by mail is complete upon mailing.
 - 2. Service by facsimile transmission is complete upon actual receipt.
 - 3. Service by electronic mail is complete upon actual receipt.

[[19]] (18) Unless otherwise provided by these rules or by other law, the party filing a pleading or brief shall serve every other party, including the general counsel and the public counsel, a copy of the pleading or brief and cover letter.

[[20]] (19) Every pleading or brief shall include a certificate of service. Such certificate of service shall be adequate proof of service.

[[21]] (20) Any pleading may be amended within ten (10) days of filing, unless a responsive pleading has already been filed, or at any time by leave of the commission.

AUTHORITY: section 386.410, RSMo [Supp. 1998] 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed May 15, 1980, effective Sept. 12, 1980. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Amended: Filed Feb. 23, 1990, effective May 24, 1990. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed Sept. 11, 2001.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO 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-2002-66 and be filed with an original and six (6) copies. No public hearing is scheduled.

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

PROPOSED AMENDMENT

4 CSR 240-2.130 Evidence. The commission is amending sections (1), (5), (6), (10), (13) and (17).

PURPOSE: These amendments allow parties before the Missouri Public Service Commission to make filings in an electronic format. The amendments also eliminate some paper copies where they are no longer necessary. The amendment to section (13) clarifies how an exhibit filed after a hearing should be submitted. Sections (1), (5), (6), and (13) have been amended for clarity and for grammatical purposes.

(1) In any hearing, ~~these rules supplement~~ section 536.070, RSMo ~~shall apply, as supplemented by these rules~~.

(5) The rules of privilege ~~[shall be]~~ are effective to the same extent that they are ~~[now or may hereafter be]~~ in civil actions.

(6) Prepared testimony ~~may be filed electronically. If prepared testimony is not filed electronically,~~ it shall be typed or printed, in black type on white paper eight and one-half inches by eleven inches (8 1/2" x 11"); it shall be double-spaced and pages numbered consecutively at the bottom right-hand corner or bottom center beginning with the first page as page 1; it shall be filed unfolded and stapled together at the top left-hand margin or bound at an edge in booklet form; and it shall ~~[be filed in sufficient number of copies as required by order of the commission, observing]~~ have the following margins: left-hand margin, one inch (1"); top margin, one inch (1"); right-hand margin, one inch (1"); and bottom margin, one inch (1"). Printing on both sides of the page is encouraged. Schedules shall bear the word "schedule" and the number of the schedule shall be typed in the lower right-hand margin of the first page of the schedule. All prepared testimony and other exhibits and schedules shall contain the following information in the following format on the upper right-hand corner of a cover sheet:

Exhibit No.:	(To be marked by the hearing reporter)
Issue:	(If known at the time of filing)
Witness:	(Full name of witness)
Type of Exhibit:	(Specify whether direct, rebuttal, or other type of exhibit)

Sponsoring Party:

Case No.:

Date Testimony Prepared:

The prepared testimony of each witness shall be filed separately and shall be accompanied by an affidavit providing the witness' oath. Prepared testimony shall be filed on line-numbered pages. Testimony ~~[which]~~ that addresses more than one (1) issue shall contain a table of contents. **Electronically filed prepared**

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 17th day of Oct. 2001.



A handwritten signature in cursive script that reads "Dale Hardy Roberts".

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge