

and 392.200, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-33.090 Settlement Agreements is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2371). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telecommunications Companies

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994, and 386.250 and 392.200, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-33.090 Settlement Agreements with Residential Customers is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2371). No changes have been made to the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Three written comments to the proposed rule were received. No comments to this proposed rule were received at the public hearing held on November 15, 1999.

COMMENT: One general written comment was received that objected to the rule as proposed because the rule applies only to residential customers and not to business customers. The commenter also stated that "[c]ustomers should be advised in the collection process that cancellation of optional, non-basic services may assist them to retain basic local calling service."

RESPONSE: The rule as proposed is substantially similar to the rule currently in effect that was originally promulgated in 1977. The Commission finds that this rule should not be applied to both residential customers and to business customers. The Commission acknowledges that not every business customer has the resources or bargaining power of a large business, however, the Commission finds that applying this rule to business customers could result in a reduction in these competitive companies' abilities to negotiate a contract. Furthermore, the Commission finds that there is not sufficient information to determine that customers may be better able to retain basic local calling service by the cancellation of non-basic services. Therefore, the Commission finds that no changes to this proposed rule are required as a result of the comment.

COMMENT: Two written comments were received which generally supported the rule as proposed.

RESPONSE: The Commission finds that no amendment to the proposed rule is necessary as result of the comment.

TK-2000-169
Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telephone Utilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994, and 386.250 and 392.200, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-33.100 Variance is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2371-2372). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telecommunications Companies

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994, and 386.250 and 392.200, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-33.100 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2372). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Three written comments to the proposed rule were received. No comments were received for this proposed rule at the public hearing held on November 15, 1999.

COMMENT: One written comment was received which suggested that section (2) be amended so that the requirements of a request for a variance in this chapter is similar to the requirements for a request for variance in Chapter 2 of the Commission's rules. The commenter also suggested that the rule require a copy of the request for variance to be served on the Office of the Public Counsel.

RESPONSE: The proposed rule requires that requests for variances be filed with the Secretary of the Commission in accordance with rule 2.060. In addition, all pleadings, including a request for variance, are subject to all of the procedural rules in Chapter 2. The Commission has recently promulgated new rules in Chapter 2 that require all pleadings be served on the Office of the Public Counsel. Therefore, the Commission finds that no amendment to the proposed rule is necessary as a result of this comment.

COMMENT: One written comment was received in general support of the proposed rule. The commenter suggested two grammatical changes to the proposed rule. First the commenter suggested that

the word "variances" at the end of section (1) be changed to "that variance." Second, the commenter suggested that the phrase "in compliance with 4 CSR 240-2.060" be moved to the end of the sentence.

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds that the suggested grammatical changes should be made. Therefore, the Commission will amend sections (1) and (2) as recommended.

COMMENT: One written comment was received which suggested that section (3) be amended by adding the words "if applicable" at the end of the section. The commenter explains that not all variances granted by the Commission (e.g. extensions of time) will affect a company's tariff.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with the commenter. The Commission finds that some variances granted by the Commission are purely procedural and do not affect a company's tariff. Therefore, the Commission will amend section (3) to clarify that variances shall be reflected in the company's tariff only where applicable.

4 CSR 240-33.100 Variance

(1) Any telecommunications company or customer may request authority for a variance from any provision of this chapter and the commission may grant that variance.

(2) A variance request shall be filed in writing with the secretary of the commission in compliance with 4 CSR 240-2.060.

(3) Any variance granted by the commission shall be reflected in a tariff if applicable.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 33—Service and Billing Practices for Telephone Utilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994, and 386.250 and 392.200, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-33.110 Commission Complaint Procedures is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2372). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 33—Service and Billing Practices for Telecommunications Companies

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994, and 386.250

and 392.200, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-33.110 Commission Complaint Procedures is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2372-2373). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Four written comments were received. One comment to this proposed rule was received at the public hearing held on November 15, 1999.

COMMENT: One written comment was filed in which the commenter stated that the telecommunications company that she represented had no objection to the proposed rule due to its similarity to the rule which is currently in effect.

RESPONSE: The Commission finds that no amendment to this rule is necessary as a result of this comment.

COMMENT: One written comment from a telecommunications company was filed in response to section (3). A representative for the same company made oral comments at the public hearing held on November 15, 1999. The commenter stated that the requirement that service continue pending the "resolution" of a complaint is problematic for the telecommunications company. The commenter stated that when an informal complaint is filed with the Commission there may not be an easily identified date by which the complaint is resolved. At the hearing the commenter suggested revised language for section (4) which would "anticipate frivolous disputes." The commenter stated that the telecommunications company that he represents is complying with the rule currently in effect which is very similar.

RESPONSE: The Commission finds that this rule is substantially similar to the rule currently in effect which was originally promulgated in 1977. The Commission received no other opposition to this rule and received one supportive comment to the rule from a separate telecommunications company. Therefore, the Commission determines that no change to the proposed rule is necessary as a result of this comment.

COMMENT: One general comment in support of this rule was filed which indicated that this rule was substantially similar to the current rule in effect.

RESPONSE: The Commission finds that no amendment to this rule is necessary as a result of this comment.

COMMENT: One written comment was filed with the Commission with regard to this proposed rule. The comment was very general as to the nature of competition and the focus of Chapter 33 of the Commission's rules. The comment was not specific to rule 33.110 and neither expressed support for or opposition to the rule.

RESPONSE: The Commission finds that no amendment to the proposed rule is necessary as a result of the comment.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 33—Service and Billing Practices for Telecommunications Companies

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994, and 386.250