

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
January 17, 2002

CASE NO: AX-2002-158

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,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

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-2002-157 and be filed with an original and six (6) copies. No public hearing is scheduled.

(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 Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed Dec. 7, 2001

FILED

JAN 17 2002

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

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.

PROPOSED AMENDMENT Missouri Public Service Commission

4 CSR 240-2.115 [Nonunanimous] Stipulations and Agreements. The commission is changing the title of the rule, amending sections (1) and (2) and deleting section (3).

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

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-2002-158 and be filed with an original and six (6) copies. No public hearing is scheduled.

(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.**

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

PROPOSED RULE

(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.

4 CSR 240-2.117 Summary Disposition of Contested Cases

PURPOSE: This rule provides for disposition of a contested case by disposition in the nature of summary judgment or judgment on the pleadings.

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

(1) **Summary Determination.**

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

(A) Any party may by motion, with or without supporting affidavits, seek disposition of all or any part of a contested case by summary determination at any time after the filing of a responsive pleading, if there is a respondent, or at any time after the close of the intervention period. However, a motion for summary determination shall not be filed less than twenty (20) days prior to the hearing except by leave of the commission.

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

(B) Motions for summary determination shall state with particularity in separately numbered paragraphs each material fact as to which the movant claims there is no genuine issue, with specific references to the pleadings, testimony, discovery, or affidavits that demonstrate the lack of a genuine issue as to such facts. Each motion for summary determination shall have attached thereto a separate legal memorandum explaining why summary determination should be granted and testimony, discovery or affidavits not previously filed that are relied on in the motion. The movant shall serve the motion for summary determination upon all other parties not later than the date upon which the motion is filed with the commission.

(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.

AX-2002-158

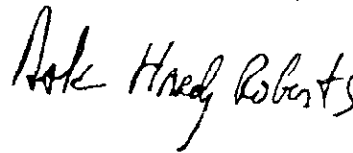
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STATE OF MISSOURI

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 Jan. 2002 .



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

