

E. ORDER OF RULEMAKING: Rule Number _____

1a. Effective Date for the Order

☐ Statutory 30 days
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 of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. This is not a reprinting of your order, but an explanation of what sections, subsections, etc. have been changed since the original proposed rule was filed.

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

STEVE GAW
Chair

CONNIE MURRAY

ROBERT M. CLAYTON III

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

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

December 7, 2004

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

Dear Secretary Blunt:

Re: Proposed Rule 4 CSR 240-3.513, Filing and Submission Requirements for Telecommunications Company Applications for Approval of Interconnection Agreements, Amendments to Interconnection Agreements, and for Notices of Adoptions of Interconnection Agreements or Statements of Generally Available Terms

CERTIFICATION OF ADMINISTRATIVE RULE

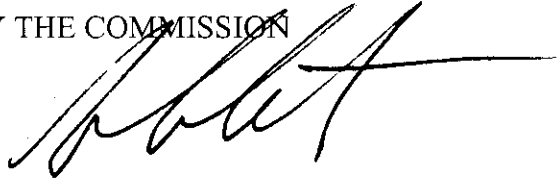
I do hereby certify that the attached is an accurate and complete copy of the proposed rule lawfully submitted by the Missouri Public Service Commission for filing on this 7th day of December 2004.

The Missouri Public Service Commission had determined and hereby certifies that this proposed rule will not have an economic impact on small businesses. The Missouri Public Service Commission also certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to section 536.017 RSMo 2000 and that this proposed rule does not constitute a taking of real property under relevant state and federal law.

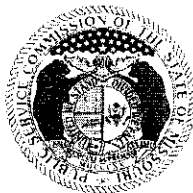
Statutory Authority: Sections 386.250 and 386.410 RSMo 2000.

If there are any questions, please contact: William K. Haas, Deputy General Counsel
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-7510

BY THE COMMISSION

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

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge



Commissioners

STEVE GAW
Chair

CONNIE MURRAY

ROBERT M. CLAYTON III

JEFF DAVIS

LINWARD "LIN" APPLING

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December 7, 2004

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

Re: Proposed Rule 4 CSR 240-3.513 Filing and Submission Requirements for Telecommunications Company Applications for Approval of Interconnection Agreements, Amendments to Interconnection Agreements, and for Notices of Adoptions of Interconnection Agreements or Statements of Generally Available Terms

Dear Mr. Roberts:

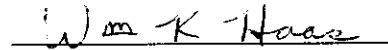
Executive Order 03-15, Section 2, requires, among other things, that state agencies determine whether a proposed rule or rules affect small businesses. If the Public Service Commission determines that its proposed rule affects small businesses by causing a direct and significant economic burden, it must then prepare a small business impact statement for submission to the Secretary of State. Senate Bill No. 718 requires a similar analysis.

In consultation with the staff of the Public Service Commission, I have undertaken an analysis of whether the proposed rule affects small businesses. I have determined that the proposed rule will not cause direct and significant economic burden on a small business, nor is it directly related to the formation, operation, or expansion of a small business.

The Proposed Rule codifies procedures for the approval, amendment and adoption of interconnection and resale agreements.

Please let me know if you have any questions based upon the foregoing.

Sincerely,

A handwritten signature in cursive script, reading "William K. Haas", positioned above a horizontal line.

William K. Haas
Deputy General Counsel
(573) 751-7510 Telephone
(573) 751-0285 Facsimile

WKH:tlv



Commissioners

STEVE GAW
Chair

CONNIE MURRAY

ROBERT M. CLAYTON III

JEFF DAVIS

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December 7, 2004

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
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Re: Proposed Rule 4 CSR 240-3.513 Filing and Submission Requirements for Telecommunications Company Applications for Approval of Interconnection Agreements, Amendments to Interconnection Agreements, and for Notices of Adoptions of Interconnection Agreements or Statements of Generally Available Terms

Dear Mr. Roberts:

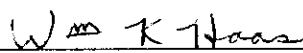
Executive Order 93-13 requires state agencies to undertake a "takings analysis" of each proposed rule or regulation in light of the United States Supreme Court decision in *Lucas v. South Carolina Coastal Council*, 112 S. Ct. 2886 (1992). Pursuant to that order, I have undertaken a "takings analysis" 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 Rule codifies procedures for telecommunications companies seeking approval, amendment and adoption of interconnection and resale agreements.

Adopting the proposed rule does not implicate the takings clause of the U.S. Constitution, because the rule does not involve the taking of real property.

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

Sincerely,




William K. Haas
Deputy General Counsel
(573) 751-7510 Telephone
(573) 751-0285 Facsimile

WKH:tlv

AFFIDAVIT
(PUBLIC NO COST)

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)


I, Anne Walker, Deputy 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 Rule 4 CSR 240-3.513 is less than five hundred dollars in the aggregate to this agency, and other agency of state government or any political subdivision thereof.



Anne Walker
Deputy Director
Department of Economic Development

Subscribed and sworn to before me this 24 day of November, 2004. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on August 12, 2008.





Notary Public

Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 3 – Filing and Reporting Requirements

PROPOSED RULE

RECEIVED
DEC 07 2004
SECRETARY OF
ADMINISTRATIVE RULES

4 CSR 240-3.513 Filing and Submission Requirements for Telecommunications Company Applications for Approval of Interconnection Agreements, Amendments to Interconnection Agreements, and for Notices of Adoptions of Interconnection Agreements or Statements of Generally Available Terms

PURPOSE: An application to approve an interconnection agreement or statement of generally available terms under 47 U.S.C. section 252(f), or an amendment to an interconnection agreement, or a notice of adoption of an interconnection agreement or adoption of statements of generally available terms shall meet the requirements set forth in this rule.

(1) Interconnection Agreements Arrived at through Negotiation

(A) Applications shall comply with applicable requirements identified in 4 CSR 240-2.040, 4 CRS 240-2.060, and 4 CSR 240-2.080.

(B) The interconnection agreement shall:

1. Sequentially number all pages of the interconnection agreement.
2. Be signed by both parties to the agreement.

(C) Changes made to a pending interconnection agreement shall be signed by both parties to the agreement.

(D) Changes made to a pending interconnection agreement more than sixty (60) days after the application was filed shall be deemed to be the withdrawal of the agreement which is pending approval and the filing of a new agreement, thus starting a new ninety (90) day period for commission action.

(2) Applications for Statements of Generally Available Terms under 47 U.S.C. section 252(f) shall comply with applicable requirements identified in 4 CSR 240-2.040, 4 CRS 240-2.060, and 4 CSR 240-2.080.

(3) Interconnection Agreements Arrived at through Arbitration

(A) The interconnection agreements shall comply with the requirements identified in 4 CSR 240-36.050.

(B) The interconnection agreement shall:

1. Sequentially number all pages of the interconnection agreement.
2. Be signed by both parties to the agreement.

(4) Adoptions of Interconnection Agreement Previously Approved by this commission

(A) Either company may submit a letter to the secretary of the commission. The letter shall include the case number in which the adopted agreement was previously approved by this commission, along with the tracking number(s) or case number(s) of any amendments the parties will adopt. The letter shall also include a copy of the signature page signed by both parties to the adoption. The adoption shall be

deemed approved on the date it is properly submitted as set forth in this rule. No adoption will become effective prior to the date it is properly submitted as set forth in this rule.

(B) If both parties have not signed the signature page to the adoption, the adopting company shall file an application with the commission.

The application shall comply with the applicable requirements identified in 4 CSR 240-2.040, 4 CSR 240-2.060, and 4 CSR 240-2.080.

1. The application shall explain the applicant's inability to obtain the other party's signature on the adoption.

2. The commission will send notice to the non-signatory party allowing twenty (20) days for objection.

3. If the non-signatory party does not file an objection on or before the twentieth (20th) day, the adoption shall be deemed approved and the commission will close the case. If the non-signatory party does file an objection on or before the twentieth (20th) day, the commission, after following an appropriate procedure, will determine whether to approve or reject the adoption.

(5) Adoption of an Approved Statement of Generally Available Terms under 47 U.S.C. section 252(f)

(A) Adoptions shall be accomplished by submitting a letter to the Secretary of the commission. The letter shall inform the commission about the adoption of the statement or agreement along with a copy of the signature page signed by both parties to the adoption.

(B) The adoption of the statement or agreement shall be deemed approved on the date it is properly submitted as set forth in this rule.

(C) No adoption will become effective prior to the date it is properly submitted as set forth in this rule.

(6) Amendments to Approved Interconnection Agreements or Approved Statements of Generally Available Terms under 47 U.S.C. section 252(f).

(A) Applications for adoption of amendments previously approved by this commission

1. Either company may submit to the secretary of the commission a letter and one copy of the proposed amendment along with one copy of the signature page signed by both parties to the adoption.

2. The letter shall generally describe the proposed amendment and the case number or tracking number where the amendment was previously approved.

3. Applications for adoption of amendments previously approved by this commission shall be deemed approved on the date they are properly submitted in as set forth in this rule, if both parties have signed the signature page of the amendment.

4. No adoption of an amendment will become effective prior to the date it is properly submitted as set forth in this rule.

(B) If both parties have not signed the signature page to the adoption of an amendment, the adopting company shall file an application with the commission.

1. The application shall comply with the applicable requirements identified in 4 CSR 240-2.040, 4 CSR 240-2.060, and 4 CSR 240-2.080.
 2. The application shall explain the applicant's inability to obtain the other party's signature on the adoption of the amendment.
 3. The commission will send notice to the non-signatory party allowing twenty (20) days for objection.
 4. If the non-signatory party does not file an objection on or before the twentieth (20th) day, the adoption of the amendment shall be deemed approved and the commission will close the case. If the non-signatory party does file an objection on or before the twentieth (20th) day, the commission, after following an appropriate procedure, will determine whether to approve or reject the adoption of the amendment.
- (C) Applications for proposed amendments not previously approved by this commission shall comply with applicable requirements identified in 4 CSR 240-2.040, 4 CSR 240-2.060, and 4 CSR 240-2.080.
1. Changes made to a pending amendment shall be signed by both parties to the amendment.
 2. Changes made to a pending amendment more than sixty (60) days after the amendment was filed shall be deemed to be the withdrawal of the amendment which is pending approval and the filing of a new amendment, thus starting a new ninety (90) day period for commission action.

AUTHORITY: sections 386.250 and 386.410, RSMo 2000. Original rule filed.....

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

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) 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, Dale Hardy Roberts, 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 February 17, 2005, and should include a reference to Commission Case No. TX-2003-0565. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. 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 February 23, 2005, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, 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 (voice) or Relay Missouri at 711.

MEMORANDUM

TO: Dale Hardy Roberts, Secretary

DATE: December 7, 2004

RE: Authorization to File Proposed Rulemaking with the Office of Secretary of State


CASE NO: TX-2003-0565

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

4 CSR 240-3.513 – Filing and Submission Requirements for Telecommunications Company Applications for Approval of Interconnection Agreements, Amendments to Interconnection Agreements, and for Notice of Adoptions of Interconnection Agreements or Statements of Generally Available Terms



Steve Gaw, Chair



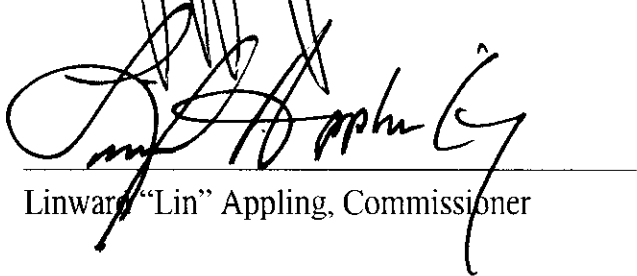
Connie Murray, Commissioner



Robert M. Clayton III, Commissioner



Jeff Davis, Commissioner



Linward "Lin" Appling, Commissioner