

MATT BLUNT  
Secretary of State  
Administrative Rules Division  
RULE TRANSMITTAL

\*Administrative Rules Stamp

RECEIVED

JAN 28 2004

SECRETARY OF STATE  
ADMINISTRATIVE RULES

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

A. Rule Number 4 CSR 240-3.545  
Diskette File Name Proposed Rule 4 CSR 240-3.545 Word 2000  
Name of Person to call with questions about this rule:  
Content Bruce H. Bates Phone 573-751-7434 FAX 573-751-9285  
Data Entry Carla Schnieders Phone 573-522-9038 FAX Same as above  
Email Address bruce.bates@psc.mo.gov  
Interagency Mailing Address Governor Office Building, 200 Madison St., 8th Floor, Jefferson City, MO  
Statutory Authority 386.250 Current RSMo date 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:

- |                                                                |                                                                       |
|----------------------------------------------------------------|-----------------------------------------------------------------------|
| <input checked="" type="checkbox"/> This transmittal completed | <input type="checkbox"/> Incorporation by reference materials, if any |
| <input checked="" type="checkbox"/> Cover letter               | <input type="checkbox"/> Authority with history of the rule           |
| <input checked="" type="checkbox"/> Affidavit                  | <input type="checkbox"/> Public cost                                  |
| <input type="checkbox"/> Forms, number of pages <u>    </u>    | <input type="checkbox"/> Private cost                                 |
| <input checked="" type="checkbox"/> Fiscal notes               | <input type="checkbox"/> Hearing and comment period                   |

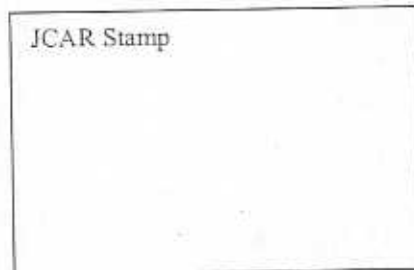
C. RULEMAKING ACTION TO BE TAKEN

- Emergency Rulemaking, (check one)  rule  amendment  rescission  termination  
**MUST include effective date**
- Proposed Rulemaking (check one)  rule  amendment  rescission
- Order of Rulemaking (check one)  rule  amendment  rescission  termination  
**MUST complete page 2 of this transmittal**
- Withdrawal (check one)  rule  amendment  rescission  emergency
- Rule action notice
- In addition
- Rule under consideration

D. SPECIFIC INSTRUCTIONS: Please indicate any special instructions (e.g., publication date preference, identify material to be incorporated by reference, or forms included herein).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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RULE TRANSMITTAL (PAGE 2)

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E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-3.545

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.

(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer text. DO NOT delete the header, however.)

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

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ROBERT SCHALLENBERG  
Director, Utility Services

DONNA M. PRENGER  
Director, Administration

DALE HARDY ROBERTS  
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE  
General Counsel

January 28, 2004

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

Dear Secretary Blunt:

RE: 4 CSR 240-3.545 – Filing Requirements for Telecommunications Company Tariffs  
Missouri Public Service Commission Case No.: TX-2003-0379

### CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copies of the proposed rule lawfully submitted by the Missouri Public Service Commission for filing this 28th day of January 2004.

The Missouri Public Service Commission has determined and hereby certifies that this proposed rule will have an economic impact on small businesses as noted on the attached fiscal note. 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: 386.250, RSMo (2000).

If there are any questions, please contact Bruce H. Bates, Associate General Counsel, Missouri Public Service Commission, 200 Madison Street, P. O. Box 360, Jefferson City, Missouri 65102, (573) 751-7434, [bruce.bates@psc.mo.gov](mailto:bruce.bates@psc.mo.gov).

Sincerely,

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge



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

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JAN 28 2004

PROPOSED RULE

SECRETARY OF STATE  
ADMINISTRATIVE RULES

**4 CSR 240-3.545 Filing Requirements for Telecommunications Company Tariffs.**

*PURPOSE: This rule prescribes the form and procedures for filing tariffs for all telecommunications companies under the jurisdiction of the Missouri Public Service Commission.*

- (1) Unless otherwise allowed by statute, a telecommunications company as defined in section 386.020 RSMo, shall file with the Missouri Public Service Commission (Commission), a tariff as defined in section (8) of this rule.
- (2) Every telecommunications company shall maintain for public inspection, and make available at its principal operating office or on its website, a copy of all current tariffs.
- (3) A tariff will be considered as continuing in force until amended in the manner provided for in this rule.
- (4) A tariff shall bear a number with the following prefix: PSC Mo. No. \_\_\_\_\_. Tariffs shall be numbered in consecutive order, commencing with a No. 1 and continuing in numerical order.
- (5) A tariff should be electronic or printed on loose-leaf paper, which shall be white, eight and one-half inches by eleven inches (8 1/2" x 11"). The Commission may accept other formats for the filing of a tariff.
- (6) Each sheet of the tariff shall show in the marginal space at the top of the sheet, the name of the telecommunications company, the PSC Mo. No. \_\_\_\_ of the tariff and the number of the sheet. All sheets of the tariff shall have a sheet number in sequential number format. If tariffs include section numbers, each section will begin with the number one and continue sequentially throughout the section.
- (7) The name, title and address of the issuing officer shall appear in the marginal space at the bottom of the sheet. The marginal space at the bottom of the sheet shall also include the notation "Issued, \_\_\_\_\_ 20\_\_\_\_; effective, \_\_\_\_\_ 20\_\_\_\_."
- (8) Tariff(s) for all telecommunications services shall contain the following information in the order listed and shall be updated as changes occur:
  - (A) Company name as registered with the Missouri Secretary of State and as certificated by the Commission;
  - (B) Authority granted by the Commission, including case number(s);
  - (C) Waivers of Missouri Statutes and Commission Rules as granted by the Commission. Include case number(s) if other than case number(s) listed in subsection (B);
  - (D) The address, telephone number and e-mail address, along with any other suitable means of communications, to which the general public can make requests for information on rates and services;
  - (E) Table of Contents - Listing of general headings specifying sheet numbers and section numbers, if applicable;
  - (F) An explanation of reference marks, technical abbreviations and definitions of terms commonly used in the tariff;

(G) For each service, tariffs shall provide the following –

1. The name of the service, which clearly identifies the regulated intrastate offering, as it will be advertised and offered to the customer. Any service name that references a rate will accurately reflect the applicable intrastate rate(s) for the service;
2. A detailed description of the service offered;
3. The specific rates and charges in US dollars and the period of time covered by the rate or charge; and
4. Any terms and customer requirements that affect the rates or charges for the service.

(H) For competitive and incumbent local exchange telecommunications carriers, a tariff shall contain an alphabetical list of the exchange areas served, including state name if other than Missouri. Areas served must follow exchange boundaries of the incumbent local telecommunications company and also be no smaller than an exchange, absent a ruling by the Commission under 392.200(4)(2)(b) RSMo 2000.

(9) All original sheets and each subsequent sheet added to a tariff must be designated as an original sheet. All changes to tariffs must be designated "First revised sheet canceling original sheet," "Second revised sheet canceling first revised sheet," etc., and must contain reference marks denoting changes.

(10) A tariff shall be filed with the Commission by a duly-designated official of the telecommunications company.

(11) Subject to Commission approval, a telecommunications company may concur in the tariff filed by another telecommunications company. The sheet indicating concurrence shall contain language substantially as follows: "The company concurs in the (rules, rates, etc.) governing (name of service) as set forth in (name of company)'s tariff as filed with the Missouri Public Service Commission, including any subsequent changes to (name of company)'s tariff."

(12) Subject to Missouri Revised Statutes and Commission Rules, all telecommunications companies shall file with the Commission any changes in rates, charges or rules that affect rates or charges. A proposed change shall be submitted in the form of a revised tariff accompanied by a cover letter and a copy of any customer notice sent or required to be sent as a result of the proposed change. The cover letter should be limited to approximately one hundred (100) words or less. A copy of the cover letter and any proposed change shall be filed with the Commission or submitted electronically through the Commission's electronic filing and information system (EFIS), shall be served on the Office of the Public Counsel, and shall be made available for public inspection and reproduction at the telecommunications company's principal operating office or on its website. The cover letter shall identify each proposed change, provide a brief summary of each proposed change, and provide the requested effective date of the revised tariff. The summary shall identify each product or service that will be affected by the proposed change and shall identify the change in the terms and conditions that the telecommunications company proposes for that product or service, including any change or adjustment in the price or fee for that product or service. For each change or adjustment in prices or fees, the summary shall identify:

- (A) The current price or fee;
- (B) The proposed price or fee;
- (C) Whether the change or adjustment results in an increase or decrease in price; and
- (D) The percentage change in price.

(13) All telecommunications companies are required to provide a clear and concise statement as to the purpose of the filing when submitting any tariff filing electronically through EFIS. This statement is in addition to the cover letter and shall be entered on the appropriate EFIS tariff submission screen.



(14) All telecommunications companies are required to submit revisions to each PSC MO No. as a separate filing to be assigned a separate tracking number in EFIS.

(15) All telecommunications companies are required to submit to the Commission with the tariff filing, a copy of the notification of rate increases sent to customers pursuant to 4 CSR 240-33.040(3) and a positive affirmation in writing that the notice was sent to customers at least ten (10) days in advance of the rate's effective date.

(16) Missouri statute 392.500, provides that the Commission shall be notified at least ten (10) days in advance of proposed rate increases to competitive telecommunications services and that the Commission shall be notified at least seven (7) days in advance of proposed decreases to competitive telecommunications services. The seven (7) or ten (10) day tariff filings for rate decreases and increases are for changes to existing rates only. No other additional tariff changes, except as directed by Commission order or as allowed under section 19 below, are permitted on seven (7) or ten (10) days notice. For example, changes to the terms and conditions of existing services, the introduction of new services, or the elimination of existing services still require a thirty (30)-day tariff filing.

(17) When a telecommunications company files a revised tariff or sheet(s) pursuant to a Commission order the cover letter shall state that the filing is in compliance with the Commission's order in Case No. \_\_\_ and shall indicate the location of the changes in the PSC Mo. No. \_\_\_.

(18) Except as otherwise provided in this rule, no tariff will be accepted for filing unless it is delivered to the Commission free from all charges or claims for postage and allows the full thirty (30) days required by law from date of receipt until effective date requested in the cover letter.

(19) Promotions are those service offerings that provide a reduction or waiver of a tariffed rate for a limited period of time. Promotions are allowed to go into effect after seven (7) days prior notice to the Commission for competitive companies and after ten (10) days prior notice to the Commission for non-competitive companies (i.e., incumbent local exchange carriers). Promotions must be offered under tariff, and prior notification to the Commission via a tariff filing is required. Promotions must have established start and end dates and must be offered in a non-discriminatory manner.

(20) In the case of a change of name, the telecommunications company shall issue immediately and file with the Commission an adoption notice substantially as follows: "The (name of telecommunications company) hereby adopts, ratifies and makes its own, in every respect as if the same had been originally filed by it, all tariffs filed with the Public Service Commission, State of Missouri, by the (name of telecommunications company) prior to (date) or the telecommunications company shall file a new tariff under the new name." Specific requirements for filings regarding telecommunications company name changes are contained in Chapter 2 of the Commission's Rules in Rule 2.060. In addition to filing the items in 4 CSR 240-2.060, applicant must notify its customers at or before the next billing cycle of a name change and file a copy of that notice with the adoption notice.

(21) Tariffs sent for filing should be addressed to Secretary, Public Service Commission, 200 Madison Street, P.O. Box 360, Jefferson City, MO 65102.

(22) All telecommunications companies shall provide and update the Manager of the Telecommunications Department of the Commission with the current name, address, telephone number and e-mail address, along with any other suitable means of communications, for the

regulatory contact person within the telecommunications company.

(23) Waivers regarding compliance with the requirements of this rule granted under previously used rule numbers such as 4 CSR 240-30.010(2)(C) will continue in effect unless otherwise ordered by the Commission.

*AUTHORITY: section 386.250, RSMo 2000. Original rule filed May 1, 2002.*

*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 is estimated to cost private entities approximately sixty-five thousand nine hundred dollars (\$65,900) annually for the life of the rule. It is anticipated that the total costs will recur annually for the life of the rule and may vary with inflation. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the Secretary of State.*

*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 April 12, 2003, and should include a reference to Commission Case No. TX-2003-0379. 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.state.mo.us/efis.asp>>. A public hearing regarding this proposed rule is scheduled for April 19, 2004, 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 or TDD Hotline 1-800-829-7541.*



**FISCAL NOTE  
PRIVATE ENTITY COST**

**I. RULE NUMBER**

Title: Missouri Department of Economic Development  
 Division: Missouri Public Service Commission  
 Chapter: Filing and Reporting Requirements  
 Type of Rulemaking: New Rule  
 Rule Number and Name: 4 CSR 240-3.545 Filing Requirements for Telecommunications Company Rate Schedules

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
4	Class A Local Telephone Companies	\$4,600
37	Class B Local Telephone Companies	\$1,000
80	Class C Local Telephone Companies	\$34,000
500+	Class Interexchange Companies	\$26,300
	All entities	\$65,900

\* Class A Telephone Companies are incumbent local telephone companies with more than \$100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with \$100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers.

### III. WORKSHEET

1. The proposed rule applies to all classes of telecommunications companies certificated by the Missouri Public Service Commission.
2. The estimated number of entities affected by the proposed rule reflects the total number of companies certificated within Missouri that may submit tariff revisions.
3. The estimate in the aggregate assumes a 20 % annual increase in the number of tariff filings submitted in the Missouri Public Service Commission's Electronic Filing and Information System during fiscal year 2003.
4. For the most part, the proposed rule updates the current rule's processes, terminology and technology. A new requirement was added to provide current regulatory contact information for the companies. The fiscal impact is expected to be minimal because the requirement can be accomplished via e-mail, letter, telephone call, etc.
5. The items to be included in an accompanying cover letter were also modified. The estimate is based on feedback from those entities that submit approximately one-third of the total tariff filings received each year and are expected to continue to submit tariffs in the future. The estimates reflect additional costs those entities expect to incur to complete the additional cover letter requirements.
6. The estimates were compiled and averaged by the Missouri Public Service Commission Staff to determine the annual impact for all entities in a classification. The Staff then extrapolated the estimated increase over the total number of tariff filings received in a year from each classification.

### IV. ASSUMPTIONS

1. Fiscal year 2003 dollars were used to estimate costs. No adjustment for inflation is applied.
2. Estimates assume no sudden change in technology that would influence costs.
3. Affected entities are assumed to be in compliance with all other Missouri Public Service Commission rules and regulations.



## Missouri Public Service Commission

Commissioners  
STEVE GAW  
Chair  
CONNIE MURRAY  
KELVIN L. SIMMONS  
BRYAN FORBIS  
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DONNA M. PRENGER  
Director, Administration  
DALE HARDY ROBERTS  
Secretary/Chief Regulatory Law Judge  
DANA K. JOYCE  
General Counsel

November 24, 2003

Mr. Joseph L. Driskill, Director  
Department of Economic Development  
301 West High Street  
Jefferson City, MO 65102

**Re: Small Business Analysis for  
Proposed Rescission and Re-adoption of Rule 4 CSR 240-3.545**

Dear Mr. Driskill:

On behalf of the Commission, the Telecommunications Department Staff and I have performed the small business analysis required by Executive Order 03-15 and plan to include the language following in the transmittal letter to the Secretary of State for the proposed rule:

### SMALL BUSINESS IMPACT STATEMENT

Executive Order 03-15 requires state agencies to "determine whether the proposed rules affect small businesses and, if so, the availability and practicability of less restrictive alternatives that could be implemented to achieve the same results of the proposed rule." A small business is defined to be "a for-profit enterprise consisting of fewer than fifty (50) full or part-time employees." A proposed rule "affects" a small business if it "imposes any requirement" that "will cause direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business."

1. Small businesses bearing costs will be certain class B and C local exchange carriers and interexchange carriers.
2. Local exchange and interexchange carriers submitting tariff filings will be adversely affected by increased cover letter requirements in Section No. 12 of the proposed amendment.

3. There is an estimated cost of not more than \$65,900 per year. All costs are indirect, and associated with reporting and professional services.
4. There are no costs to the implementing agency, but the benefit is additional information will highlight what is contained within the tariff filing.
5. The Commission provided opportunity for comment on proposed language in Case No. TX-2003-0379.
6. In order to consider ways to reduce the proposed impact, Commission Staff sent the proposed rule language to representative industry contacts for fiscal impact feedback and provided opportunity to comment on proposed language in Case No. TX-2003-0379.
7. There are no known comparable state or federal regulations, or court decisions.

Sincerely yours,



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