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SEP 11 2001

MATT BLUNT
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

SECRETARY OF STATE
 ADMINISTRATIVE RULES

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

A. Rule Number 4 CSR 240-2.080
 Diskette File Name 2.080 proposed amendment (Word 97 format)
 Name of Person to call with questions about this rule:
 Context Nancy Dippell Phone 573-751-4393 FAX 573-526-6010
 Data Entry Judy Pope Phone 573-751-6526 FAX 573-526-6010
 Interagency Mailing Address Governor Office Building, 200 Madison Street, Suite 900,
Jefferson City, MO
 Statutory Provision for Rulemaking
 Authority 386.410 Provide Most Current RSMo Year 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: FORMS, List by Mo-Form Number, # of Pages
☒ Cover Letter
☒ Affidavit
 _____ Cost Statements
 _____ Public Entity Fiscal Note
 _____ Private Entity Fiscal Note
 OTHER Takings Analysis
Small Business Impact Analysis

C. RULEMAKING ACTION TO BE TAKEN
 _____ Emergency Rulemaking, Must Specify Effective Date
☒ Proposed Rulemaking (Amendment of Existing Rule)
 _____ Order of Rulemaking (MUST complete page 2 of this transmittal)
 _____ Withdrawal (Rule, Amendment, Rescission or Emergency)
 _____ Rule Action Notice
 _____ In Addition

D. SPECIFIC INSTRUCTIONS: In this space indicate any special instructions (e.g., specify publication date preference, identify material incorporated by references, etc.)

V

E. ORDER OF RULEMAKING: Rule Number N/A

1a. Effective Date for the Order
Statutory 30 days or later 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 or rulemaking, indicating the specific section, subsection, subparagraph, part, etc., where each change is found.

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
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
SHEILA LUMPE
STEVE GAW

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
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ROBERT SCHALLENBERG
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DONNA M. KOLILIS
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DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

September 11, 2001

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

ATTENTION: Administrative Rules Division

I do hereby certify that the attached are accurate and complete copies of the Proposed Amendment lawfully submitted by the Missouri Public Service Commission for filing this 11th day of September, 2001, and that a takings analysis and small business impact analysis have occurred.

Rule: 4 CSR 240-2.080 Pleadings, Filing, and Service

Statutory authority: 386.410, RSMo 2000

Missouri Public Service Commission Case No.: AX-2002-66

If there are any questions, please contact: Nancy Dippell, Senior Regulatory Law Judge
Missouri Public Service Commission
Governor Office Building, 9th Floor
200 Madison Street
Post Office Box 360
Jefferson City, Missouri 65102
Phone: (573) 751-4393
E-mail: ndippell@mail.state.mo.us

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge


DHR:ND:jp

Enclosures: Transmittal, Affidavit, 4 CSR 240-2.080 Proposed Amendment (hard copy + copy on 3-1/2" diskette), takings analysis, small business impact analysis

AFFIDAVIT

STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Joseph L. Driskill, Director of the Department of Economic Development, first being duly sworn on my oath state that it is my opinion that the cost of the *Proposed Amendment to 4 CSR 240-2.080, Pleadings, Filing & Service*, is less than five hundred dollars (\$500) in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Joseph L. Driskill
Director
Department of Economic Development

Subscribed and sworn to before me this 24th day of August, 2001. I am
commissioned as a notary public within the County of Callaway State of
Missouri, and my commission expires on September 21, 2004



NOTARY PUBLIC

JULIE A. ATCHISON
NOTARY PUBLIC STATE OF MISSOURI
CALLAWAY COUNTY
MY COMMISSION EXP. SEPT 21, 2004

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

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SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED AMENDMENT

4 CSR 240-2.080 Pleadings, Filing, and Service

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 brief; or,

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

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[(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.

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[(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.*

** Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than \$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, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty 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.*



Commissioners
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
SHEILA LUMPE
STEVE GAW

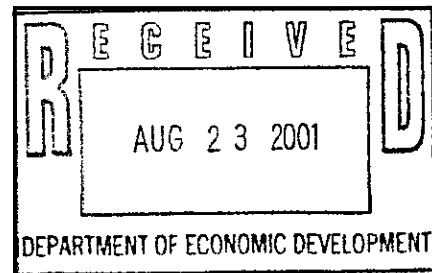
Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.state.mo.us>

August 22, 2001

WESS A. HENDERSON
Director, Utility Operations
ROBERT SCHALLENBERG
Director, Utility Services
DONNA M. KOLILIS
Director, Administration
DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

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



RE: Proposed Amendment to Rule 4 CSR 240-2.080 Pleadings, Filing, and Service

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.

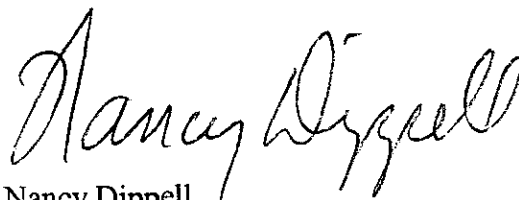
The proposed amendments to this rule allow parties before the Missouri Public Service Commission to make filings in an electronic format, and eliminate the requirement for parties to file multiple paper copies if the party chooses to file in an electronic format. The amendments also allow for service between parties by electronic means. Additionally, the time when a pleading or brief shall be officially stamped "filed" by the Commission is clarified.

Amending rule 4 CSR 240-2.080 does not implicate the takings clause of the U.S. Constitution, because the rule does not involve the taking of real property.

Mr. Dale Hardy Roberts
Page two
August 22, 2001

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

Very truly yours,

A handwritten signature in cursive script, reading "Nancy Dippell". The signature is written in dark ink and is positioned above the printed name and title.

Nancy Dippell
Senior Regulatory Law Judge

ND:jp



Commissioners
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
SHEILA LUMPE
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August 22, 2001

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

RE: Proposed Amendment to Rule 4 CSR 240-2.080 Pleadings, Filing, and Service

Dear Mr. Roberts:

Executive Order 96-18 requires state agencies to determine whether a proposed rulemaking will have direct economic impact on small businesses of five hundred dollars or more in the aggregate. A small business is defined in the Executive Order as an independently owned and operated business entity that employs fifty or fewer full-time employees.

The amendments to rule 4 CSR 240-080 will allow parties before the Missouri Public Service Commission to make filings in an electronic format, eliminate the requirement for parties to file multiple paper copies if the party chooses to file in an electronic format, and allow for service between parties by electronic means. Additionally, the time when a pleading or brief shall be officially stamped "filed" by the Commission is clarified. The amendments are not estimated to have a direct economic impact on small businesses of five hundred dollars or more in the aggregate.

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

Very truly yours,

A handwritten signature in cursive script that reads "Nancy Dippell".
Nancy Dippell
Senior Regulatory Law Judge

ND:jp



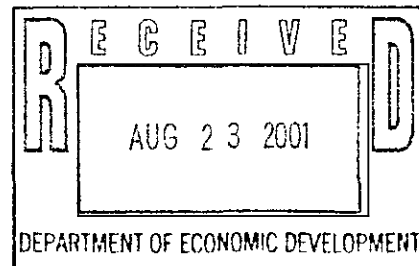
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Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

August 23, 2001



Mr. Joseph L. Driskill, Director
Department of Economic Development
Harry S Truman State Office Building
301 West High Street
Jefferson City, Missouri 65109

RE: Affidavit for Proposed Amendment to 4 CSR 240-2.080 Pleadings, Filing, and Service

Dear Mr. Driskill:

As required by statute, enclosed for your signature is an affidavit for a Proposed Amendment to 4 CSR 240-080 of the Public Service Commission rules. A copy the Proposed Amendment is also enclosed, as well as copies of the takings and small business impact analyses.

If you have any questions, please feel free to contact me at (573) 751-4256.

Very truly yours,

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

DHR:jp

Enclosures: Affidavit for 4 CSR 240-2.080 Pleadings, Filing, and Service
Proposed Amendment - 4 CSR 240-2.080 Pleadings, Filing, and Service
Takings Analysis
Small Business Impact Analysis

MEMORANDUM

TO: Dale Hardy Roberts, Secretary


DATE: September 11, 2001

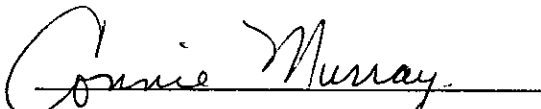
RE: Authorization to File Proposed Amendment With the Office of Secretary of State

CASE NO: AX-2002-66

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

4 CSR 240-2.080 Pleadings, Filing, and Service


Kelvin L. Simmons, Chair


Connie Murray, Commissioner


Sheila Lumpe, Commissioner


Steve Gaw, Commissioner

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT**

Division 240—Public Service Commission

Chapter 2—Practice and Procedure

PROPOSED AMENDMENT

4 CSR 240-2.080 Pleadings, Filing, and Service

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.

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 - 4. [Facsimile transmission to the current facsimile machine of] **Transmitting it by facsimile machine to the party's attorney[.]; or**
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