

## MEMORANDUM

TO: Dale Hardy Roberts, Secretary

DATE: August 16, 1999

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

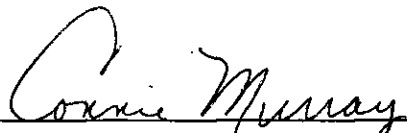
CASE NOS: AX-2000-108 through AX-2000-131

AGENDA DATE: August 17, 1999

The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file Proposed Rules with the Office of Secretary of State, as listed on the attached sheet.

  
\_\_\_\_\_  
Sheila Lumpe, Chair

ABSENT DR  
\_\_\_\_\_  
Harold Crumpton, Commissioner

  
\_\_\_\_\_  
Connie Murray, Commissioner

  
\_\_\_\_\_  
Robert Schemenauer, Commissioner

  
\_\_\_\_\_  
M. Dianne Drainer, Vice Chair

Proposed Rules:

- Rule: 4 CSR 240-2.010 – Definitions
- 4 CSR 240-2.015 – Waiver of Rules
- 4 CSR 240-2.040 – Practice Before the Commission
- 4 CSR 240-2.050 – Computation of Effective Dates
- 4 CSR 240-2.060 – Applications
- 4 CSR 240-2.065 – Tariff Filings Which Create Cases
- 4 CSR 240-2.070 – Complaints
- 4 CSR 240-2.075 – Intervention
- 4 CSR 240-2.080 – Pleadings, Filing, and Service
- 4 CSR 240-2.085 – Protective Orders
- 4 CSR 240-2.090 – Discovery and Prehearings
- 4 CSR 240-2.100 – Subpoenas
- 4 CSR 240-2.110 – Hearings
- 4 CSR 240-2.115 – Nonunanimous Stipulations and Agreements
- 4 CSR 240-2.116 – Dismissal
- 4 CSR 240-2.120 – Presiding Officers
- 4 CSR 240-2.125 – Procedures for Alternative Dispute Resolution
- 4 CSR 240-2.130 – Evidence
- 4 CSR 240-2.140 – Briefs and Oral Argument
- 4 CSR 240-2.150 – Decisions of the Commission
- 4 CSR 240-2.160 – Rehearings or Reconsideration
- 4 CSR 240-2.180 – Rulemaking
- 4 CSR 240-2.200 – Small Company Rate Increase Procedure

**REBECCA MCDOWELL COOK**  
**Secretary of State**  
**Administrative Rules Division**  
**RULE TRANSMITTAL**

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**AUG 24 1999**  
**SECRETARY OF STATE**  
**ADMINISTRATIVE RULES DIVISION**

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

**COPY**

A. Rule Number 4 CSR 240-2.015

Diskette File Name 2.015 proposed rule

Name of Person to call with questions about this rule:

Context Vicky Ruth Phone 573-522-8459 FAX 573-751-1847

Data Entry Judy Pope Phone 573-751-6526 FAX 573-751-1847

Interagency Mailing Address Truman Bldg., 301 W. High St., Room 530, Jefferson City, MO

Statutory Provision for Rulemaking

Authority § 386.410

Provide Most Current RSMo Year 1998

Date Filed With the Joint Committee on Administrative Rules Exempt per Sections 536.024 and 536.037, RSMo Supp. 1998, 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 (New 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:)

**RULE TRANSMITTAL (PAGE 2)**

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E. ORDER OF RULEMAKING: Rule Number (Not Applicable)

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.

(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer language that appears at the bottom of this page.)

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

SHEILA LUMPE  
Chair

HAROLD CRUMPTON

CONNIE MURRAY

ROBERT G. SCHEMENAUER

M. DIANNE DRAINER  
Vice Chair

## Missouri Public Service Commission

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

August 24, 1999

GORDON L. PERSINGER  
Acting Executive Director  
Director, Research and Public Affairs

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

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AUG 24 1999

**SECRETARY OF STATE  
ADMINISTRATIVE RULES DIVISION**

Honorable Rebecca McDowell Cook  
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 Rules lawfully submitted by the Missouri Public Service Commission for filing this 24th day of August, 1999, and that a takings analysis and small business impact analysis have occurred.

- Rule: 4 CSR 240-2.010 – Definitions
- 4 CSR 240-2.015 – Waiver of Rules
- 4 CSR 240-2.040 – Practice Before the Commission
- 4 CSR 240-2.050 – Computation of Effective Dates
- 4 CSR 240-2.060 – Applications
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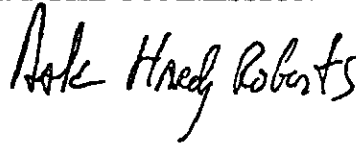
Honorable Rebecca McDowell Cook  
Page two  
August 24, 1999

Statutory authority: 386.410, RSMo Supp. 1998

Missouri Public Service Commission Case Nos.: AX-2000-108 through AX-2000-131

If there are any questions, please contact: *(These rules are assigned to several regulatory law judges. Please refer to the transmittal form for the name, phone number and fax number of the regulatory law judge assigned to a particular rule.)*

BY THE COMMISSION

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive, flowing style.

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

DHR:BH:jp

Enclosures: Packets for 23 Proposed Rules  
+ Proposed Rules in Word 97 format on 3-1/2" diskette

AFFIDAVIT

STATE OF MISSOURI }

COUNTY OF COLE }

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AUG 24 1999

SECRETARY OF STATE  
ADMINISTRATIVE RULES DIVISION

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 Proposed Rule 4 CSR 240-2.015 **Waiver of Rules** is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

COPY

*Joseph L. Driskill*

Joseph L. Driskill  
DIRECTOR

Department of Economic Development

Subscribed and sworn to before me this 23rd day of August,  
1999. I am commissioned as a notary public within the County of Cole,  
State of Missouri, and my commission expires on April 26, 2003.

*Laura L. Hoskins*  
NOTARY PUBLIC

LAURA L. HOSKINS  
NOTARY PUBLIC STATE OF MISSOURI  
COLE COUNTY  
MY COMMISSION EXP. APR. 26, 2003

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 240—Public Service Commission  
Chapter 2—Practice and Procedure**

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**PROPOSED RULE**

**AUG 24 1999**

**SECRETARY OF STATE  
ADMINISTRATIVE RULES DIVISION**

**4 CSR 240-2.015 Waiver of Rules**

*PURPOSE: This rule defines when the rules in this chapter may be waived.*

(1) A rule in this chapter may be waived by the commission for good cause.

**COPY**

*AUTHORITY: section 386.410, RSMo Supp. 1998. \* Original rule filed: August 24, 1999.*

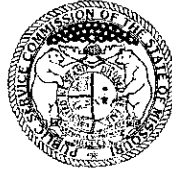
*\* Original authority 1939, amended 1947, 1977, 1996.*

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

*PRIVATE ENTITY COST: This proposed rule 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 rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments shall be filed on or before Nov. 1, 1999. Comments should refer to Case No. AX-2000-109 and be filed with an original and fourteen (14) copies. No public hearing is scheduled.*





Commissioners

SHEILA LUMPE  
Chair

HAROLD CRUMPTON

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M. DIANNE DRAINER  
Vice Chair

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**SECRETARY OF STATE  
ADMINISTRATIVE RULES DIVISION**

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

RE: Proposed Rule 4 CSR 240-2.015

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 new rule defines when the rules in Chapter 2 may be waived.

The proposed new rule 4 CSR 240-2.015 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

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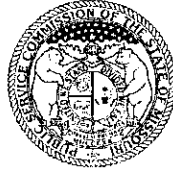
Please let me know if you have any questions on this issue.

Very truly yours,

A handwritten signature in cursive script that reads "Vicky Ruth".

Vicky Ruth  
Regulatory Law Judge

VR:jp



*Commissioners*

SHEILA LUMPE  
Chair

HAROLD CRUMPTON

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SECRETARY OF STATE  
ADMINISTRATIVE RULES DIVISION

RE: Proposed Rule 4 CSR 240-2.015

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 proposed new rule 4 CSR 240-2.015 will not 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,

Vicky Ruth  
Regulatory Law Judge

VR:jp