

MATT BLUNT

**Secretary of State
Administrative Rules Division
RULE TRANSMITTAL**

COPY

*Administrative Rules Stamp

RECEIVED

NOV 30 2004

SECRETARY OF STATE
ADMINISTRATIVE RULES

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

A. Rule Number 4 CSR 240-29.100
 Diskette File Name Proposed Rule 29.100
 Name of person to call with questions about this rule:
 Content Keith Krueger Phone 573-751-4140 FAX 573-751-9285
 Data entry Lesli Belt Phone 573-751-7499 FAX Same as above
 Email address keith.krueger@psc.mo.gov
 Interagency mailing address Governor Office Building, 200 Madison St., 8th Floor, Jefferson City, MO
 Statutory Authority 386.040 Current RSMo date 2000
386.250 2003
 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).

JCAR Stamp

NOTE: ALL changes **MUST** be specified here in order for those changes to be 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

JEFF DAVIS

LINWARD "LIN" APPLING

Missouri Public Service Commission

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

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

November 30, 2004

Mr. Matt Blunt
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt,

RE: 4 CSR 240-29.100 Objections to Payment Invoices

CERTIFICATION OF ADMINISTRATIVE RULE

I 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 30th day of November 2004.

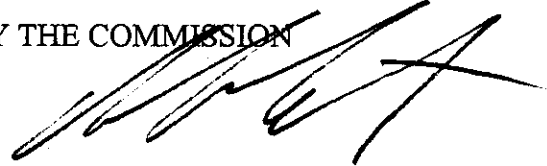
The Missouri Public Service Commission has determined and hereby certifies that this proposed rule will not have an economic impact on small businesses. The Missouri Public Service Commission also certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant 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 386.040 and 386.250.

If there are any questions, please contact:

Keith Krueger, Deputy General Counsel
P.O. Box 360
Jefferson City, MO 65102
(573) 751-4140, FAX (573) 751-9285
keith.krueger@psc.mo.gov

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Dale Hardy Roberts', written over the text 'BY THE COMMISSION'.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 29 – Enhanced Record Exchange Rules**

PROPOSED RULE

4 CSR 240-29.100 Objections to Payment Invoices

PURPOSE: The purpose of this rule is to establish a procedure for objecting to payment of invoices received for terminating LEC-to-LEC network telecommunications traffic.

- (1) Objections to invoices received for terminating LEC-to-LEC traffic shall be made in writing or e-mail to the terminating carrier. Questions pertaining to such invoices may be submitted by telephone.
- (2) All objections under this rule shall be promptly investigated by the terminating carrier responsible for sending payment invoices. The results of all such investigations shall be reported back to the objecting party in writing or by e-mail no later than thirty (30) days after receipt of the objection. A written or e-mail correspondence showing a summary or results of all such investigations must be provided by the terminating company to the manager of telecommunications, Missouri Public Service Commission.
- (3) In the event any terminating local exchange carrier in any billing period or periods receives billing records for compensable traffic that are less than the total terminating compensable traffic received and recorded by the terminating local exchange carrier for that period or periods ("unidentified traffic"), the terminating local exchange carrier may render a written or e-mail objection to the receipt of the unidentified traffic to the terminating tandem carrier across whose facilities the terminating local exchange carrier believes such unidentified traffic was transited. Such objection need not be in the form of an invoice. Within twenty (20) days after receipt of such objection, the terminating tandem carrier shall in turn notify all carriers it believes may have placed or transited the unidentified traffic on the LEC-to-LEC network. Objections and notifications informing carriers of unidentified terminating traffic shall be promptly investigated by all carriers that receive them. The objecting carrier, tandem carriers, and originating carriers shall work cooperatively and in good faith and shall provide complete and accurate billing records to the objecting terminating local exchange carrier. The terminating local exchange carrier shall make available the ANI and such other information relating to such unidentified traffic as is in its possession. All carriers shall make full disclosure of their positions, and evidence in support thereof, to all other carriers participating in the investigation, and to the manager of telecommunications, Missouri Public Service Commission, and shall make duplicates of such evidence and information available to all participants. Within sixty (60) days after the objection is made, the results of such investigation shall be reported back to all carriers concerned, and written or e-mail correspondence showing a summary of results of the investigations shall be provided by all involved carriers to the manager of telecommunications, Missouri Public Service Commission. In the event the carriers cannot agree on a common report, each carrier may submit its own report.

(4) In the event any objection to invoice, or any objection to the receipt of unidentified traffic, remains unresolved or uncompensated for more than thirty (30) days following provision of investigation reports to the manager of telecommunications, Missouri Public Service Commission, the carrier rendering the invoice, or the carrier objecting to the receipt of unidentified traffic, may initiate the following intercarrier compensation complaint process applicable to traffic placed on the LEC-to-LEC network:

(A) After having complied with (3) and (4) above, the objecting carrier may file a formal complaint in accordance with 4 CSR 240-2.070. Said complaint may name as respondents any or all carriers participating in the investigation process, and any carriers notified of the investigation process but not participating in it. Tandem carriers named as parties in such complaint shall have thirty (30) days from being served to identify and name as additional parties respondent any other carriers that may have originated or transited such unidentified traffic. Such carriers shall be served with the complaint and pleading naming them as additional parties in the same manner as is described in 4 CSR 240-2.070 (7), and shall answer within thirty (30) days of the date of notice as provided therein.

(B) Within thirty (30) days after all answers are filed, or within thirty (30) days of the last date for timely answer, the commission will set the matter for evidentiary hearing without the need for prefiled testimony.

(C) Within twenty (20) days after the conclusion of said hearing the regulatory law judge assigned shall file a recommended decision to the commission, and serve copies thereof on each party. Said recommended decision shall address and resolve objections to invoices, and shall address and resolve objections to the receipt of unidentified traffic, and may find originating carriers or originating tandem carriers liable to the terminating LEC for unidentified traffic.

(D) Each party shall have twenty (20) days from the filing of the recommended decision in which to file a response to the recommended decision. In the event no party responds, the recommended decision shall be the decision of the commission. In the event any party does respond, the commission shall thereafter consider the recommended decision and the responses thereto, and enter its decision within thirty (30) days of the filing of responses to the recommended decision.

AUTHORITY: sections 386.040 and 386.250, RSMo 2000. Original rule filed November 30, 2004.

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 OF PUBLIC HEARING AND 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 of the Commission, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before February 2, 2005, and should include a reference to commission Case No. TX-2003-0301.

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 February 9, 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 or TDD Hotline 1-800-829-7541.

AFFIDAVIT

STATE OF MISSOURI)
)
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 the **Proposed Rule 4 CSR 240-29.100, Objections to Payment Invoices** is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



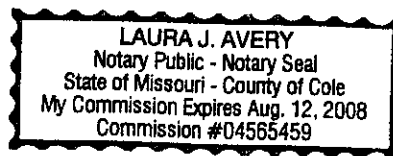
Anne Walker
Deputy Director
Department of Economic Development

Subscribed and sworn to before me this 4th 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



**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: Proposed Rule Making
Rule Number and Name: 4 CSR 240-29.100 Objections to Payment Invoices.

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	\$0
0	Class B Local Telephone Companies	\$0
0	Class C Local Telephone Companies	\$0
	Class Interexchange Companies	\$0
	All entities	\$0

* 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 Staff does not project a cost impact on any telephone company. This rule defines "unidentified traffic" as compensable traffic delivered to terminating LECs for which no billing record was created. The rule specifically outlines an *informal* dispute resolution process in which the parties attempt to resolve differences without creating a docketed case. For the first time, such informal dispute resolution actively encourages involvement of the Staff of the PSC. The rule does not permit terminating LECs to simply add up total minutes of use and claim they are being denied payment; rather, the rule requires terminating LECs to engage in fact finding to demonstrate receipt of unidentified traffic prior to filing a formal complaint. For example, the rule requires terminating LECs to present call detail information (such as the caller's telephone number) to transiting carriers before terminating LECs file a complaint case for unidentified traffic. In the Staff's view, by encouraging informal dispute resolution, and by encouraging certain fact finding prior to litigation, the expedited dispute resolution process should result in less, not more, litigation.

IV. ASSUMPTIONS

1. SBC claims the expedited dispute resolution process set forth in sections (3) and (4) of this rule is likely to lead to continued litigation. SBC estimates an impact of \$50,000 per related case per year.

2. Sprint claims the proposed rule will generate nine contested cases to resolve instances of unidentified traffic sent to terminating LECs by Sprint. Sprint points to live direct testimony with a discovery process, and estimates these procedural and litigation activities to cost \$225,000.



Matt Blunt
Secretary of State

Administrative Rules Division
Rulemaking Transmittal Receipt

Rule ID: 2112
Date Printed: 11/30/2004
Rule Number: 4 CSR 240-29.100
Rulemaking Type: Proposed Rule
Date Submitted to Administrative Rules Division: 11/30/2004
Date Submitted to Joint Committee on Administrative Rules:

Name of Person to Contact with questions concerning this rule:

Content: Keith Krueger	Phone: 751-4140	Email: keith.krueger@psc.mo.gov	Fax:
RuleDataEntry: Lesli Belt	Phone: 751-7499	Email: keith.krueger@psc.mo.gov	Fax:

Included with Rulemaking:

Cover Letter	11/30/2004
Private Fiscal Note	11/30/2004
Affidavit for public cost	11/30/2004

