

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

Administrative Rules Stamp

**RECEIVED**  
**COPY** MAY 12 2006  
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 Amendment 3.545  
Name of person to call with questions about this rule:  
Content William K. Haas Phone 573-751-7510 FAX 573-751-9285  
E-mail address william.haas@psc.mo.gov  
Data entry Tammy Vieth Phone 573-751-8377 FAX 573-751-9285  
E-mail address tammy.vieth@psc.mo.gov  
Interagency mailing address GOB, 200 Madison Street, 8<sup>th</sup> Floor Jefferson City, MO  
Statutory Authority 386.250 Current RSMo date 2000  
Date filed with the Joint Committee on Administrative Rules May 12, 2006

B. CHECKLIST guide for rule packets:

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> This transmittal completed      | <input type="checkbox"/> Forms, number of pages _____                           |
| <input checked="" type="checkbox"/> Cover letter                    | <input checked="" type="checkbox"/> Authority section with history of the rule. |
| <input checked="" type="checkbox"/> Affidavit                       | <input checked="" type="checkbox"/> Public cost statement                       |
| <input checked="" type="checkbox"/> Small business impact statement | <input checked="" type="checkbox"/> Private cost statement                      |
| <input type="checkbox"/> Fiscal notes                               | <input checked="" type="checkbox"/> Hearing date                                |

C. RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination

**MUST** include effective date \_\_\_\_\_

☒ Proposed Rulemaking (choose one) ☐ rule, ☒ amendment, or ☐ rescission  
☐ Order of Rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination

**MUST** complete page 2 of this transmittal

☐ Withdrawal (choose one) ☐ rule, ☐ amendment, ☐ rescission or ☐ emergency)  
☐ Rule action notice ☐ In addition ☐ Rule under consideration

D. SPECIFIC INSTRUCTIONS: Any additional information you may wish to provide to our staff \_\_\_\_\_

Small Business Regulatory  
Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON

MAY 12 2006

ADMINISTRATIVE RULES

**RULE TRANSMITTAL (PAGE 2)**

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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. Give an explanation of each section, subsection, etc. which has been changed since the proposed rulemaking was published in the Register.

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**

**JEFF DAVIS**  
Chairman

**CONNIE MURRAY**

**STEVE GAW**

**ROBERT M. CLAYTON III**

**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>

**WESS A. HENDERSON**  
Executive Director

**DANA K. JOYCE**  
Director, Administration

**ROBERT SCHALLENBERG**  
Director, Utility Services

**WARREN WOOD**  
Director, Utility Operations

**COLLEEN M. DALE**  
Secretary/Chief Regulatory Law Judge

**KEVIN A. THOMPSON**  
General Counsel

May 12, 2006

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

Dear Secretary Carnahan:

**Re: Proposed Amendment to 4 CSR 240-3.545, Filing Requirements for Telecommunications Company Tariffs**

**CERTIFICATION OF ADMINISTRATIVE RULE**

I do hereby certify that the attached is an accurate and complete copy of the proposed amendment lawfully submitted by the Missouri Public Service Commission for filing on this 12<sup>th</sup> day of May 2006.

Statutory Authority: Sections 386.250 RSMo 2000.

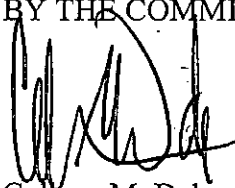
Section 536.300 RSMo Supp. 2005 requires state agencies to "determine whether the proposed rulemaking affects small businesses and, if so, the availability and practicability of less-restrictive alternatives that could be implemented to achieve the same results of the proposed rule." A small business is defined to be "a for-profit enterprise consisting of fewer than one hundred full- or part-time employees." A proposed rule "affects" a small business if it "impose[s] any potential or actual requirement" that "will cause direct and significant economic burden upon a small business, or that is directly related to the formation, operation, or expansion of a small business."

The Proposed Amendment to 4 CSR 240-3.545 does not impose any requirement that "will cause direct and significant economic burden upon a small business, or that is directly related to the formation, operation, or expansion of a small business," and the Commission certifies that it has determined that the proposed rules will not have an economic impact on small businesses.

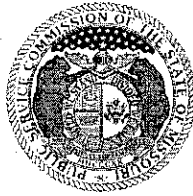
The Missouri Public Service Commission also certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to section 536.017 RSMo 2000 and that this proposed rule does not constitute a taking of real property under relevant state and federal law.

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 'Colleen M. Dale', is written over the printed name.

Colleen M. Dale  
Secretary



Commissioners

JEFF DAVIS  
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

**Missouri Public Service Commission**

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WARREN WOOD  
Director, Utility Operations

COLLEEN M. DALE  
Secretary/Chief Regulatory Law Judge

KEVIN A. THOMPSON  
General Counsel

April 21, 2006

RECEIVED  
APR 27 2006

Mr. Gregory A. Steinhoff, Director  
Department of Economic Development  
301 West High Street  
Jefferson City, Missouri 65101

COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION

**RE: Proposed Amendment to 4 CSR 240-3.545, Filing Requirements for Telecommunications Company Tariffs**

Dear Mr. Steinhoff:

The Public Service Commission proposes to publish a Proposed Amendment to 4 CSR 240-3.545, Filing Requirements for Telecommunications Company Tariffs. Section 392.500 RSMo had required a telecommunications company to notify the Commission at least seven days in advance of a rate decrease for a competitive telecommunications service. The Proposed Amendment reflects that SB 237 amended Section 392.500 to allow such rate decreases on one day's notice.

Please find enclosed a copy of the Proposed Amendment, and a Public Entity Cost Affidavit for your signature. Please review and sign the Affidavit at your earliest convenience so that the Commission may proceed with publishing.

Executive Order 93-13 requires state agencies to undertake a "takings analysis" of each proposed rulemaking 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. Adopting the proposed rulemaking does not implicate the takings clause of the U.S. Constitution, because the proposed rulemaking does not involve the taking of real property.

The Commission has performed the small business analysis required by Section 536.300, RSMo Supp. 2005 and plans to include the following language in the transmittal letter to the Secretary of State for the proposed rules:

Section 536.300 RSMo Supp. 2005 requires state agencies to "determine whether the proposed rulemaking affects 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 one hundred full- or part-time employees." A proposed rule "affects" a small business if it "impose[s] any potential or actual requirement" that "will cause direct and significant economic burden upon a small business, or that is directly related to the formation, operation, or expansion of a small business."

The Proposed Amendment to 4 CSR 240-3.545 does not impose any requirement that "will cause direct and significant economic burden upon a small business, or that is directly related to the formation, operation, or expansion of a small business," and the Commission certifies that it has determined that the proposed rules will not have an economic impact on small businesses.

Please let me know if you have any questions concerning this proposed amendment.

Sincerely,



William K. Haas  
Deputy General Counsel  
(573) 751-7510 (Telephone)  
(573) 751-9285 (Fax)  
[william.haas@psc.mo.gov](mailto:william.haas@psc.mo.gov)

Enclosure

**AFFIDAVIT**  
**(PUBLIC NO COST)**

STATE OF MISSOURI       )  
                                  )ss.  
COUNTY OF COLE       )

I, Gregory A. Steinhoff, 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 240-3.545 is less than five hundred dollars in the aggregate to this agency, and any other agency of state government or any political subdivision thereof.



\_\_\_\_\_  
Gregory A. Steinhoff  
Director  
Department of Economic Development

Subscribed and sworn to before me this 26<sup>th</sup> day of April, 2006.  
I am commissioned as a notary public within the County Cole, State of Missouri, and my  
commission expires on February 1, 2008.

  
\_\_\_\_\_  
NOTARY PUBLIC

Laura L. Hoskins  
Notary Public Notary Seal  
State of Missouri  
County of Cole  
My Commission Expires 02/01/08

# COPY

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

# RECEIVED

MAY 12 2006

## Proposed Amendment

SECRETARY OF STATE  
ADMINISTRATIVE RULES

### 4 CSR 240-3.545 Filing Requirements for Telecommunications Company Tariffs

**PURPOSE:** *This rule is being modified to allow rate decreases for competitive telecommunications on one day's notice to create consistency with changes to Missouri's telecommunications laws.*

(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]* **one day** in advance of proposed decreases to competitive telecommunications services. The *[seven (7)]* **one (1)** or ten (10)-day tariff filings for rate decreases and increases are for changes to existing rates **or charges, or proposed change in any classification or tariff resulting in a decrease or increase in rates or charges, for competitive telecommunications service [only]**. No other additional tariff changes, except as directed by commission order or as allowed under section (19) below, are permitted on *[seven (7)]* **one (1)** 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.

**AUTHORITY:** *section 386.250, RSMo 2000. \* Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded and readopted: Filed Jan. 28, 2004, effective Sept. 30, 2004.*

*\*Original authority: 386.260, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

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

**PRIVATE COST:** *This proposed amendment 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 amendment with the Missouri Public Service Commission, Cully Dale, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register** and should include a reference to commission Case No. TX-2006-0429. Comments may also be submitted via a filing using the commission's electronic filing and information system and <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for July 20, 2006, at 1:30 p.m. in Room 305 of the Governor Office Building.*

JOINT COMMITTEE ON

MAY 12 2006

ADMINISTRATIVE RULES



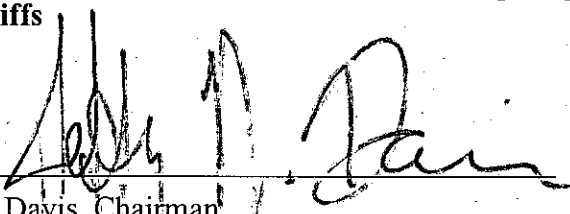
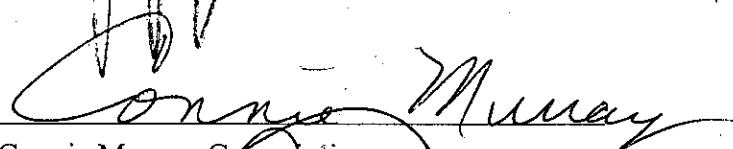
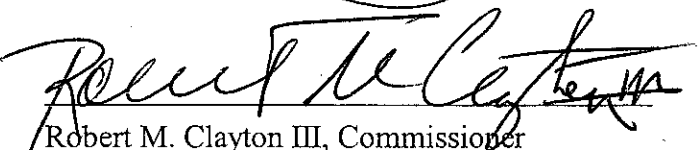
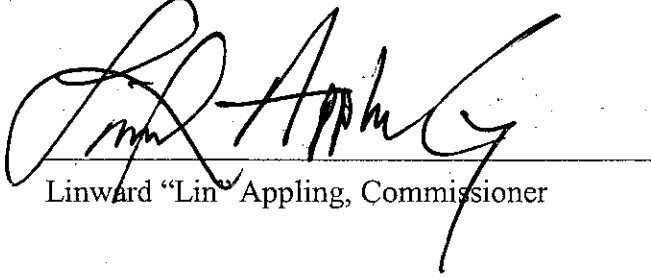
*200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans 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.*

## MEMORANDUM

**TO:** Colleen M. Dale, Secretary  
**DATE:** May 4, 2006  
**RE:** Authorization to File Proposed Rulemaking with the Office of Secretary of State  
**CASE NO:** TX-2006-XXXX

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:

**Amendment to 4 CSR 240-3.545 – Filing Requirements for Telecommunications Company Tariffs**

  
\_\_\_\_\_  
Jeff Davis, Chairman  
\_\_\_\_\_  
Connie Murray, Commissioner  
\_\_\_\_\_  
Steve Gaw, Commissioner  
\_\_\_\_\_  
Robert M. Clayton III, Commissioner  
\_\_\_\_\_  
Linward "Lin" Appling, Commissioner