

MATT BLUNT
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

*Administrative Rules Stamp

RECEIVED

MAR 12 2004

SECRETARY OF STATE
ADMINISTRATIVE RULES

COPY

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

A. Rule Number 4 CSR 240-32.200
Diskette File Name Proposed Rule 240-32.200
Name of Person to call with questions about this rule: William Haas
Content William Haas Phone 573-751-7510 FAX 573-751-9285
Data Entry Tammy Vieth Phone 573-751-8377 FAX Same as above
Email Address william.haas@psc.mo.gov
Interagency Mailing Address Governor Office Building, 200 Madison St., 8th Floor, Jefferson City, MO
Statutory Authority 386.040, 386.250 and 392.200 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 checked="" type="checkbox"/> Incorporation by reference materials, if any
<input checked="" type="checkbox"/> Cover letter	<input checked="" type="checkbox"/> Authority with history of the rule
<input checked="" type="checkbox"/> Affidavit	<input checked="" type="checkbox"/> Public cost
<input type="checkbox"/> Forms, number of pages <u> </u>	<input checked="" type="checkbox"/> Private cost
<input checked="" type="checkbox"/> Fiscal notes	<input checked="" 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).

AIRS Standards For Professional

Information and Referral

(incorporation by reference)

Small Business Letter

Takings Letter

JCAR Stamp

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. 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.

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

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

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

March 12, 2004

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

Dear Secretary Blunt:

Re: Proposed Rule 4 CSR 240-32.200
General Provisions for the Assignment, Provision and Termination of 211 Service

CERTIFICATION OF ADMINISTRATIVE RULE

I do 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 11th day of March 2004.

The Missouri Public Service Commission had 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, 386.250 and 392.200 RSMo 2000.

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 'Dale Hardy Roberts', with a long horizontal line extending to the right.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge



Commissioners

STEVE GAW
Chair

CONNIE MURRAY

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March 12, 2004

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

Re: Proposed Rule 4 CSR 240-32.200, General Provisions for the Assignment, Provision and Termination of 211 Service
Case No. TX-2004-0154

Dear Mr. Roberts:

Executive Order 03-15, Section 2, requires, among other things, that state agencies determine whether a proposed rule or rules affect small businesses. If the Public Service Commission determines that its proposed rule affects small businesses by causing a direct and significant economic burden, it must then prepare a small business impact statement for submission to the Secretary of State.

In consultation with the staff of the Public Service Commission, I have undertaken an analysis of whether the proposed rule affects small businesses. I have determined that the proposed rule will not cause direct and significant economic burden on a small business, nor is it directly related to the formation, operation, or expansion of a small business.

The proposed rule establishes standards for the assignment and provision of 211 service and the Commission's application requirements for Information and Referral Services Providers. The number 211 is an abbreviated dialing code assigned by the Federal Communications Commission for community information and referral services. The costs, if any, incurred by telecommunications company in implementing 211 service are subject to recovery through tariffed rates.

Please let me know if you have any questions based upon the foregoing.

Sincerely,

A handwritten signature in dark ink, appearing to read "Wm K Haas". The signature is written in a cursive, slightly stylized font.

William K. Haas
Deputy General Counsel
(573) 751-7510
(573) 751-9285 (Fax)



Commissioners

STEVE GAW
Chair

CONNIE MURRAY

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March 12, 2004

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
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P. O. Box 360
Jefferson City, MO 65102

Re: Proposed Rule 4 CSR 240-32.200, General Provisions for the Assignment, Provision
and Termination of 211 Service
Case No. TX-2004-0154

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 a real property owner of all economically beneficial use of that real 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 rule applies to the assignment and provision of 211 service and the Commission's application requirements of Information and Referral Services Providers.

The proposed rule does not implicate the takings clause of the U.S. Constitution, because it does not involve the taking of real property. This proposed rule does not constitute a taking of real property under relevant state and federal law.

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

Sincerely yours,

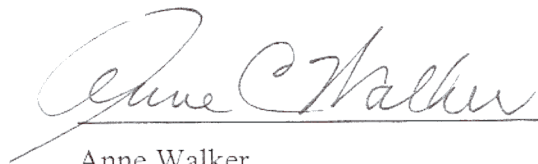
A handwritten signature in dark ink, appearing to read "Wm K Haas". The signature is written in a cursive, slightly slanted style.

William K. Haas
Deputy General Counsel
(573) 751-7510
(573) 751-9285 (Fax)

AFFIDAVIT

STATE OF MISSOURI)
)
COUNTY OF COLE)

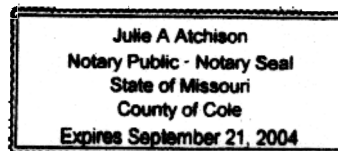
I, Anne Walker, Deputy Director of the Department of Economic Development, first being duly sworn on my oath state that it is my opinion that the cost of the Proposed **Rule 4 CSR 240-32.200, General Provisions for the Assignment, Provision and Termination of 211 Service**, is less than five hundred 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 27th day of February, 2004.
I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on September 21, 2004.


NOTARY PUBLIC



**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: Missouri Department of Economic Development

Division: Missouri Public Service Commission

Chapter: Telecommunications Service

Type of Rulemaking: Proposed

Rule Number and Name: 4 CSR 240-32.200 General Provisions for the Assignment,
Provision and Termination of 211 Service.

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
37	Class B Local Telephone Companies	\$0
15	Class C Local Telephone Companies	\$0
0	Class Interexchange Companies	\$0
3	Missouri I & R Provider	\$9,000
	All entities	\$9,000

* 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; Missouri I & R Providers are non-profit organizations as defined by Section 501(c)(3) of the federal tax code that requests to be authorized by the Commission to be a 211 Information and Referral Provider.

III. WORKSHEET

1. The proposed rule applies to all incumbent local exchange telecommunications companies and all facilities-based competitive local exchange telecommunications companies certificated by the Missouri Public Service Commission that receive a request for the provision of 211 service in Missouri. The proposed rule also applies to any not-for-profit entities authorized by the Commission as the Information and Referral Provider for an area.
2. Class A, B, and C local telecommunications companies are able to recover costs associated with provisioning 211 service through tariffed rates.
3. It is an entity's choice to submit an application to become an Information and Referral Provider, not a requirement established by this proposed rulemaking.
4. Most rule requirements are imposed by the Alliance of Information and Referral Systems (AIRS) and not separate requirements imposed by this proposed rulemaking. Cost to receive AIRS accreditation as required by the rule is \$3,000.

IV. ASSUMPTIONS

Fiscal year 2004 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.
4. Fiscal impact assumes three separate not-for-profit entities will seek authorization to serve as a Missouri authorized Information and Referral Provider in any given year.

COPY

SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED RULE

4 CSR 240-32.200 General Provisions for the Assignment, Provision and Termination of 211 Service.

PURPOSE: This rule applies to the assignment and provision of 211 service and the commission's application requirements for Information and Referral Services Providers. This rule is intended to enhance the ability of the public to access services that provide free information and referral to community resources in situations that are not immediately life-endangering, but still represent a serious but less urgent threat to basic human needs and individuals' health or welfare.

PUBLISHER'S NOTE:

(1) Definitions. For the purposes of 4 CSR 240-32.200, the following definitions are applicable:

(A) 211 is an abbreviated dialing code assigned by the Federal Communications Commission for community information and referral services.

(B) 211 Network is the system of 211 providers authorized by the commission that provide Information and Referral (I&R) services via 211 throughout the state of Missouri.

(C) Abbreviated dialing code is a three digit dialing pattern which enables callers to connect to a location in the telecommunications network that otherwise would be accessible only via a seven or ten-digit telephone number. The telecommunications network must be pre-programmed to translate the three-digit code into the appropriate seven or ten-digit telephone number and route the call accordingly.

(D) Accreditation is a process by which the Alliance of Information and Referral Systems determines whether information and referral programs are in compliance with the standards as set forth in the Standards for Professional Information and Referral, 4th edition, revised October 2002.

(E) Alliance of Information and Referral Systems (AIRS) is a non-profit, professional membership organization for information and referral providers.

(F) Applicant is a non-profit organization as defined by Section 501(c)(3) of the federal tax code that requests to be authorized by the commission to become a Missouri I&R Provider.

(G) Exchange is used as defined in Section 386.020 RSMo 2000.

(H) Human Services are services which include, but are not limited to, activities that help people to become more self-sufficient, sustain independence, strengthen family relationships, support personal and social development and ensure the well being of individuals, families, groups and communities. Specific kinds of human services include ensuring that people have access to adequate food, shelter, clothing and transportation; financial resources to meet their needs; consumer education and decision support; legal services; training and employment; health and mental health care including substance abuse services; both routinely and in times of disaster or other emergencies.

(I) Information and Referral Provider (I&R Provider) is an organization which helps match people with requested services. The I&R Provider acts as an intermediary, matching the

person with the necessary combination of human services that will address the individual's needs.

(J) Missouri I&R Provider is an I&R Provider that has received authority pursuant to this rule

(K) Qualified human services entity is an entity offering human services and complying with AIRS standards for database inclusion thus making it eligible to be included in a Missouri I&R Provider's database.

(L) Standards for Professional Information and Referral, 4th edition, revised October 2002 is the document published by the Alliance of Information and Referral Systems that defines the national standards for information and referral programs and systems.

(M) Telecommunications company is used as defined in Section 386.020 RSMo 2000.

(N) Volunteer or Donation Management means assisting individuals or organizations to provide volunteer services to the community.

(2) When a telecommunications company receives a request from an entity to use 211 as the Information and Referral Provider for a geographic area, the telecommunications company shall:

(A) Ensure that any entities that were using 211 at the local level prior to July 31, 2000, relinquish use of the code for non-compliant services;

(B) Take steps necessary (such as reprogramming switch software) to complete 211 calls from its subscribers to the Information and Referral Provider;

(C) Submit a tariff to the commission, if no tariff exists, incorporating rates, terms and conditions for 211 service; the tariff shall include rates established pursuant to the provisions of Section 392.220(3) RSMo; and

(D) Determine that the entity is a Missouri I&R Provider or has submitted an application to become an authorized I&R Provider in Missouri.

(3) Entities interested in becoming a Missouri I&R Provider shall file an application with the commission.

(A) All applications shall include a statement that the applicant meets the following criteria:

1. Applications must comply with 4 CSR 240-2.060(1);

2. A statement that the applicant is a not-for-profit organization as defined by Section 501(c)(3) of the federal tax code;

3. A statement that the 211 telephone line will be monitored twenty-four (24) hours a day, seven (7) days a week, by:

A. The applicant's personnel;

B. The personnel of another Missouri I&R Provider under subcontract with the applicant; or

C. The personnel of a qualified human services entity under subcontract with the applicant;

4. The 211 telephone line shall not be answered through an answering service or answering machine;

5. Will adhere to the Alliance of Information and Referral Systems, Incorporated Standards for Professional Information and Referral, 4th edition, revised October 2002, which is incorporated herein by reference, and is AIRS accredited, or has initiated, or will initiate, the written application process and shall become accredited within three years;

6. Offers comprehensive services pursuant to the AIRS standards;

7. Shares resource database information with other Missouri I&R Providers;
8. Works collaboratively and has written agreements with specialized information and referral systems which shall include crisis centers, child care resource and referral programs, elderly help-lines, homeless coalitions, designated emergency management systems, 911 and 311 systems, as applicable;
9. Uses a method common to all Missouri I&R Providers to measure and evaluate outcomes for the operation of a 211 call center;
10. Has an established automated information tracking system that maintains call center data that shall include the following statistics: call volume, number of abandoned calls, average speed of answering, and average call length;
11. Tracks information on inquirer needs, unmet needs, and barriers to services and shares this data with other Missouri I&R Providers, and local and state organizations;
12. Removes or excludes human services entities from the Missouri I&R Providers' database for failure to deliver service, fraud, misrepresentation and discrimination;
13. Maintains a computerized information and referral database that has up-to-date information and resource data and the capacity to collect caller information;
14. Ensures quality of service and caller and customer satisfaction through follow-up and written outcome evaluations;
15. Publicizes 211 services through a written public awareness, marketing, advertising, and education plan to inform the public regarding available services;
16. Provides teletype (TTY) services for speech and hearing impaired individuals and multi-lingual accessibility either on-site, or through access to translators; and
17. Has formal agreements with clearinghouse agencies that provide volunteer or donation management services.

(B) In addition to the requirements of section (A), the application must include:

1. A statement that the applicant possesses sufficient technical, financial and managerial resources and abilities to become the I&R Provider for the requested telephone exchanges;
2. A statement as to the applicant's ability and willingness to abide by commission rules and policies; and
3. A statement that sets forth the exchange(s) to be served.

(4) Upon receipt of an application, the commission shall issue notice to all incumbent local exchange telecommunications companies in the exchange(s) to be served, all facilities-based alternative local exchange telecommunications companies certificated to provide basic local telecommunications service, all human services entities listed in the yellow pages under the categories "Human Service Organizations" and "Social Service Organizations" for the exchanges to be served, all county seats for the requested exchanges, and all city governments in cities within the requested exchanges that have a population of 5000 or more persons.

(A) Any other party interested in becoming the Missouri I&R Provider for the geographic area to be served shall submit an application in compliance with subsections (3)(A) and (B) above within 30 days of the notice issued in section (4) above.

(B) The commission will grant an entity's application to become a Missouri I&R provider unless it finds that granting the application is not in the public interest.

(C) The commission will authorize only one I&R Provider for each telephone exchange. This shall not preclude a Missouri I&R Provider from serving multiple telephone exchanges.

- (5) A Missouri I&R Provider shall comply with the statements set forth in its application.
- (6) To ensure the efficient use of the 211 number for information and referral services, the Missouri I&R Provider shall be required to coordinate with all other information and referral service providers and the telecommunications companies within its designated telephone exchange or exchanges.
- (7) A Missouri I&R Provider will be entitled to use the three digit 211 abbreviated dialing code to serve the community for a period of three (3) years.
- (8) If the applicant wishes to continue as the authorized Missouri I&R Provider after the three (3) year period, the applicant must reapply for authority with the commission.
- (A) Reapplication shall be submitted at least ninety (90) days prior to the expiration of the Missouri I&R Provider's authorization.
- (B) Reapplication shall include all items listed under subsections (3)(A) and (B) above.
- (9) If a Missouri I&R Provider loses AIRS accreditation, within forty-five (45) days of the loss of accreditation, the provider shall submit to the commission for approval a plan to secure AIRS accreditation.
- (10) If the commission receives a formal complaint filed pursuant to Chapter 2 of 4 CSR 240 that a Missouri I&R Provider is in violation of the AIRS criteria, or of a statute, rule, order or tariff applicable to the provision of 211 service, or that its continued authorization is not in the public interest, the commission shall initiate an investigation of the complaint within twenty-one (21) calendar days after the filing of the formal complaint and take action as appropriate, including but not limited to revocation of the Missouri I&R Provider's authorization.
- (11) The commission shall revoke the use of the 211 dialing code from any entity that is not authorized by the commission.
- (A) Prior to revocation, the commission shall notify the entity using the 211 number that it has 30 days from receipt of the notification to file an application seeking authority to become a Missouri I&R Provider.
- (B) If the entity using the 211 number fails to meet the commission's authorization criteria within 30 days of receipt of revocation notice, the commission, shall direct the appropriate local exchange company(s) to revoke use of the 211 number.
- (12) A Missouri I&R Provider will be responsible for all costs of provisioning service, including nonrecurring and recurring charges incurred by the use of the abbreviated dialing code 211.
- (13) Neither a telephone company nor a Missouri I&R Provider shall charge end users for 211 service.
- (14) Any qualified human services entity may be listed in the Missouri I&R Provider's database at no charge.

(A) To be listed in the 211 database, a qualified human services entity must provide the following information to the Missouri I&R Provider.

1. Contact information;
2. A description of provided services; and
3. A list of the counties where service is provided.

(B) Missouri I&R Providers shall inform qualified human services entities that inclusion in the database is a privilege rather than a right and that they may be removed or excluded from the database for failure to deliver service, fraud, misrepresentation and discrimination.

(15) The 211 abbreviated dialing code shall not be used for commercial advertisements or solicitation.

(16) A Missouri I&R Provider shall submit to the commission an annual report documenting information and referral services provided.

(A) The annual report shall include geographical areas served, call volume, number of abandoned calls, average speed of answering, average call length, information on inquirer needs, unmet needs, and barriers to services;

(B) The annual report shall cover the previous year's activities and shall follow the state's fiscal year from July 1 through June 30; and

(C) The report shall be submitted to the Manager of the Telecommunications Department on or before August 1 of each year.

(17) All telecommunications companies and Missouri I&R Providers operating pursuant to the emergency rule shall meet any additional requirements in compliance with this rule within six (6) months after its effective date. All new Applicants shall comply with all portions of this rule beginning on its effective date.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 2000. Emergency rule filed February 9, 2004, effective March 15, 2004, expires September 10, 2004. Original rule filed March 12, 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 is estimated to cost private entities approximately nine thousand dollars (\$9,000) per year. 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 May 17, 2004, and should include a reference to Commission Case No. TX-2004-0154. 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 May 26, 2004, at 10:00 a.m. in the Commission's offices in 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(voice) or Relay Missouri at 711.

MEMORANDUM

Dale Hardy Roberts, Secretary

DATE: March 12, 2004

Authorization to File Proposed Rulemaking with the Office
of Secretary of State

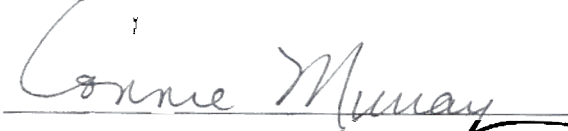
CASE NO: TX-2004-0154

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:

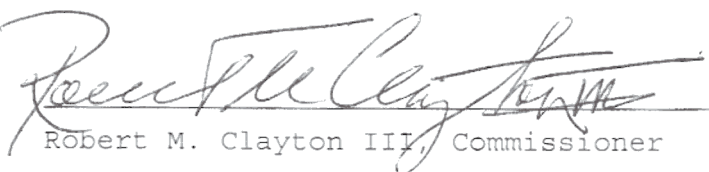
4 CSR 240-32.200 - General Provisions for the Assignment, Provision
and Termination of 211 Service



Steve Gaw, Chair



Connie Murray, Commissioner



Robert M. Clayton III, Commissioner