

(G) The reasons a change of electrical suppliers is in the public interest;

(H) If the current electrical supplier and the requested electrical supplier agree to the requested change, a verified statement for each supplier with the application, indicating agreement; and

(I) If the applicant is an electrical supplier, a list of the names and addresses of all customers whose electrical supplier is proposed to be changed.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

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

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

**4 CSR 240-2.065 Tariff Filings Which Create Cases  
is rescinded.**

A notice of the proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2324). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule and are summarized there.

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

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

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

**4 CSR 240-2.065 is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2324-2325). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** Written comments were received during the comment period.

**COMMENT:** There were several comments on Subsection (1). One comment stated that the proposed rule would add a burden to a company, i.e., making the same people who are involved in the preparation of the filing also responsible for the filing of the direct testimony. Other comments stated that the term "general rate increase" needs to be defined. Some comments stated that if the Commission wants an accelerated process in general rate increase cases that it should benefit all parties, e.g., by not suspending the tariffs for the full statutory period.

**RESPONSE AND EXPLANATION OF CHANGE:** The Commission has considered all these comments. One change was made in response thereto.

**COMMENT:** One comment on Subsection (2) stated that the phrase, "Except when the Commission orders the filing of a tariff . . ." should be added at the beginning of that Subsection to make it clearer that it does not apply to compliance tariff filing.

**RESPONSE AND EXPLANATION OF CHANGE:** The Commission has considered this comment and has made a change in response thereto.

**COMMENT:** One comment on Subsection (2) opposed deleting the "good cause" part of the expedited portion of the former rule.

**RESPONSE:** The Commission has considered this comment and has made no change in response thereto.

**COMMENT:** One comment on Subsection (3) stated that the requirement of attaching a copy of the subject tariff could be burdensome and unnecessary.

**RESPONSE:** The Commission has considered this comment and has made no change in response thereto.

**COMMENT:** One comment on Subsection (5) stated that the rule should provide that the copy should be served upon the Office of the Public Counsel pursuant to Section 386.710.2 RSMo.

**RESPONSE:** The Commission has considered this comment and has made no change in response thereto.

**4 CSR 240-2.065 Tariff Filings Which Create Cases**

(1) A general rate increase request is one where the company or utility files for an overall increase in revenues through a company-wide increase in rates for the utility service it provides, but shall not include requests for changes in rates made pursuant to an adjustment clause or other similar provisions contained in a utility's tariffs. When a public utility submits a tariff which constitutes a general rate increase request, the commission shall establish a case file for the tariff. The tariff and all pleadings, orders, briefs, and correspondence regarding the tariff shall be filed in the case file established for the tariff. The tariff submitted shall be in compliance with the provisions of the rules relating to the separate utilities. A tariff filed which proposes a general rate increase request shall also comply with the minimum filing requirements of these rules for general rate increase requests. Any public utility which submits a general rate increase request shall simultaneously submit its direct testimony with the tariff.

(2) Except when the Commission orders the filing of a tariff, when a public utility submits a tariff for commission approval but requests the tariff become effective in fewer than thirty (30) days, the commission shall establish a case file for the tariff. In addition, the public utility shall file a Motion for Expedited Treatment and comply with the expedited treatment portion of these rules. The tariff and all pleadings, orders, briefs, and correspondence shall be filed in the case file established for the tariff.

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**ORDER OF RULEMAKING**

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

**4 CSR 240-2.070 Complaints is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2325). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

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

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission adopts a rule as follows:

**4 CSR 240-2.070 Complaints is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2325-2326). No changes were made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The Commission received two written comments to section (1) and one written comment each to sections (3), (5), (6) and (9). In addition, the Commission received one written comment not related to a particular section of the rule.

**COMMENT:** One comment in opposition of part of section (1) was received. The commenter stated that the Commission's proposal to allow the Commission Staff through its general counsel to file a complaint with the Commission would be an attempt to extend or modify a statute by rule which is specifically prohibited in the case of *Missourians for Honest Elections v. Missouri Elections Commission*, 536 SW2d 766, 772 (Mo.App.E.D. 1976). The commenter states that the parties who are authorized to file a complaint before the Commission are listed in section 386.390, RSMo 1994, which does not include the Commission Staff. One comment in support of this part of section (1) was also received.

**RESPONSE:** The Commission disagrees with the commenter's interpretation and applicability of *Missourians for Honest Elections v. Missouri Elections Commission*, 536 SW2d 766, 772 (Mo.App.E.D. 1976). The Commission has authority under section 386.390, RSMo, to make a complaint and the authority under section 386.240, RSMo, to delegate that authority to the Commission Staff. The Commission finds that the rule is appropriate as proposed and no changes are necessary.

**COMMENT:** One comment was received which suggested that the first sentence of Section 2.070(3) should read as follows: If a complainant does not choose to pursue the informal complaint process, or if the complainant is not satisfied with the outcome of the informal complaint process, a formal complaint may be filed.

**RESPONSE:** Section (1) of the proposed rule clearly states that the complainant "has the option to file either an informal or a formal complaint." Therefore, the Commission finds that no changes are needed to this rule as a result of this comment.

**COMMENT:** One commenter proposed the following additional language be added to section (5): "The Commission secretary shall make available complaint forms and distribute the forms upon request to assist and simplify the filing of complaints."

**RESPONSE:** The Commission makes its complaint forms available to the general public upon request. The Commission will be revising its procedures in the near future to allow for electronic filing of some documents. Electronic filing may require that the Commission's forms be updated into a format which is compatible with its new system. Therefore, the Commission did not include these forms in this rule as they would have been cumbersome and would not easily have been revised or updated. No changes were made to this rule as a result of this comment.

**COMMENT:** One commenter filed a comment in support of the language of section (6) which requires notice before dismissing a complaint. The commenter supports this notice requirement because this allows the complainant an opportunity to present arguments as to why the complaint should not be dismissed.

**RESPONSE:** The Commission finds that no changes to this rule are necessary as a result of this comment.

**COMMENT:** One comment expressed support of section (9) which provides procedures for default and for setting aside the default. The commenter's remarks indicated that this would allow a complaint to proceed in a timely fashion even if a utility chooses to ignore the complaint or otherwise fails to respond.

**RESPONSE:** The Commission finds that no changes to this rule are necessary as a result of this comment.

**COMMENT:** One comment was received which recommended that the Commission adopt additional rules to provide for an expedited complaint resolution.

**RESPONSE:** The Commission has procedural rules that provide for motions for expedited treatment. Furthermore, the Commission finds that these suggested changes are very extensive and would amount to an entire new rule being promulgated without the benefit of public notice and comment. The Commission has procedures set out under 4 CSR 240-2.180(3) for parties to submit a petition for the promulgation of a new rule. Therefore, the Commission has determined that no changes will be made as a result of this comment.

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Chapter 2—Practice and Procedure**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1999, the commission rescinds a rule as follows:

**4 CSR 240-2.075 Intervention is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2326). No changes were made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.