

Robin Carnahan

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-2.070 Complaints

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:

Content Morris L. Woodruff Phone 573-751-2849 FAX 573-526-6010

Email address morris.woodruff@psc.mo.gov

Data Entry Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

Email address morris.woodruff@psc.mo.gov

Interagency mailing address PSC, Ste 900, Gov. Ofc. Bldg., Jefferson City, MO 65102

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☒ Proposed Rulemaking

☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Order of Rulemaking

Effective Date for the Order _____

☐ Statutory 30 days OR Specific date _____

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☐ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Small Business Regulatory
Fairness Board (DED) Stamp
SMALL BUSINESS
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

MAR 24 2010

ADMINISTRATIVE RULES



Commissioners
ROBERT M. CLAYTON III
Chairman

JEFF DAVIS
TERRY M. JARRETT
KEVIN GUNN
ROBERT S. KENNEY

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 and
Regulatory Policy
ROBERT SCHALLENBERG
Director, Utility Services
NATELLE DIETRICH
Director, Utility Operations
STEVEN C. REED
Secretary/General Counsel
KEVIN A. THOMPSON
Chief Staff Counsel

March 24, 2010

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

Re: 4 CSR 240-2.070 Complaints

Dear Secretary Carnahan,

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SECRETARY OF STATE
ADMINISTRATIVE RULES

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.

The Public Service Commission has determined and hereby certifies that this proposed amendment will not have an economic impact on small businesses. The Public Service Commission further 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, that the proposed amendment does not constitute a taking of real property under relevant state and federal law, and that the proposed amendment conforms to the requirements of HB 191, Section 1, regarding user fees.

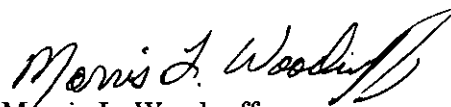
The Public Service Commission has determined and hereby also certifies that this proposed amendment complies with the small business requirements of HB 191, Section 1, in that it does not have an adverse impact on small businesses consisting of fewer than twenty-five full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with HB 191, by exempting any small business consisting of fewer than twenty-five full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

Robin Carnahan
Secretary of State
March 24, 2010
Page Two

Statutory Authority: sections 386.410, RSMo 2000

If there are any questions regarding the content of this proposed amendment, please contact:

Morris L. Woodruff, Chief Regulatory Law
Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-2849
morris.woodruff@psc.mo.gov

A handwritten signature in black ink, appearing to read "Morris L. Woodruff", with a stylized flourish at the end.

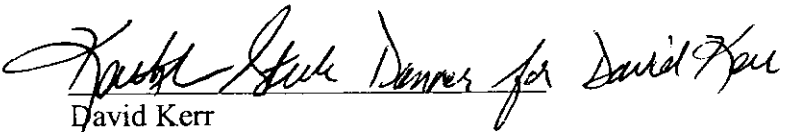
Morris L. Woodruff
Chief Regulatory Law Judge

AFFIDAVIT

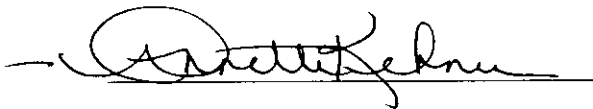
PUBLIC COST

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

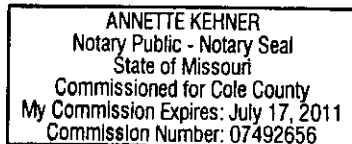
I, David Kerr, Director, Missouri Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the attached fiscal note for the proposed amendment to Rule 4 CSR 240-2.070 is a reasonably accurate estimate.


David Kerr
Director
Department of Economic Development

Subscribed and sworn to before me this 19th day of March, 2010. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on 17 July 2011.



Notary Public



Title 4 - DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240 – Public Service Commission

Chapter 2 – Practice and Procedure

PROPOSED AMENDMENT

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**SECRETARY OF STATE
ADMINISTRATIVE RULES**

4 CSR 240-2.070 Complaints. The commission is adding new sections (13) and (14) to create a simplified complaint process to handle small complaints by consumers against the public utilities that provide service to them.

PURPOSE: The commission is amending the rule to create a small formal complaint process. The new rule is intended to provide an improved process for addressing disputes between utilities and their customers by reducing formality or procedural barriers, by expediting commission decisions and by making the locations of the hearing of the disputes more convenient to the customer.

(13) When a judgment is rendered disposing of a case, the regulatory law judge shall cause the parties to be notified that the judgment will be final unless an application for rehearing is filed within the allotted number of days and provide information regarding the rehearing and appeal process.

(14) Small Formal Complaint Case. When a formal complaint is filed by a person regarding any dispute involving less than three thousand dollars (\$3000.00), the provisions of sections (1) – (13) of this rule shall apply unless they are in direct conflict with the provisions of this section, in which case, the provisions of this section shall apply. Additionally, the following process shall be followed for such complaints:

- (A) Upon the filing of a complaint which qualifies under this section, the secretary of the commission shall serve by certified mail, postage prepaid, a copy of the complaint upon the person, corporation or public utility against whom the complaint has been filed, which shall be accompanied by a notice that the matter complained of be satisfied or that the complaint be answered by the respondent, unless otherwise ordered, within thirty (30) days of the date of the notice. Failure to timely answer may result in the complainant's averments being deemed admitted and an order granting default entered. The respondent has seven (7) days from the issue date of the order granting default to file a motion to set aside the order of default and extend the filing date of the answer. The regulatory law judge may grant the motion to set aside the order of default and grant the respondent additional time to answer if good cause is shown.**
- (B) Upon the filing of a complaint which qualifies under this section, the secretary of the commission shall open a case and alert the commission to the existence of the case. The commission may, by order, reserve the right to hear and decide such small formal complaints as it deems fit.**

Should be COMMITTEE ON

MAR 24 2010

ADMINISTRATIVE RULES

commission issue such an order, the complaint shall no longer qualify for treatment under this section.

- (C) Upon the filing of a complaint that qualifies under this section, the chief regulatory law judge shall assign the case to a regulatory law judge. To process small complaint cases in the timeliest manner and in the most convenient location for the customers, the commission hereby delegates the commission's authority to hear the case, make rulings, and issue a report and order or other appropriate order disposing of the case to such regulatory law judge.
- (D) The commission staff shall serve as an advisor to the judge and shall not act as an advocate. The commission staff shall, within forty-five (45) days, investigate the complaint and file a report detailing staff's findings and recommendations.
- (E) Any hearing, unless otherwise agreed to by the parties, shall be held in the county, or a city not within a county, where the subject utility service was rendered or within thirty (30) miles of where the service was rendered.
- (F) Small formal complaint case hearings shall be conducted in an informal summary manner whenever possible and without affecting the rights of the parties:
 - (1) The formal rules of evidence and procedure shall not apply;
 - (2) The regulatory law judge shall have the authority to dispense with pre-filed written testimony; and
 - (3) The regulatory law judge shall assume an affirmative duty to determine the merits of the claims and defenses of the parties and may question parties and witnesses.
- (G) The regulatory law judge, after affording the parties reasonable opportunity for discovery and a fair hearing, shall issue a report and order within one hundred (100) days following the filing of the complaint, unless the regulatory law judge finds due process requires additional time or the extension is otherwise agreed to by the parties. Any such report and order shall have an effective date of no less than ten (10) days following issuance.
- (H) Any party subject to an order disposing of the case or a report and order issued by a regulatory law judge under this section may file with the commission, prior to its effective date, an application for rehearing to have such report and order reviewed by the commission. Such application shall contain specific detailed grounds upon which it claims the report and order is unlawful, unjust or unreasonable. The commission may summarily allow or deny an application for rehearing with or without hearing. If a rehearing is granted, the commission may review the case de novo or limit the scope of review or issues under review by order prior to rehearing. The commission may affirm, modify, reverse, or set aside the report and order issued by the regulatory law judge on the basis of the evidence previously submitted in

such case, may take additional evidence, issue a report and order, or may remand the matter to the regulatory law judge with directions.

- (I) If an application for rehearing is denied, the report and order of the regulatory law judge shall be deemed to be the final decision of the commission for the purpose of judicial review, pursuant to section 386.500, RSMo.

AUTHORITY: section 386.410, RSMo 2000.

PUBLIC COST: This proposed rule will cost affected state agencies or political subdivisions approximately \$2,000 in the aggregate.

PRIVATE COST: This proposed rule will not cost affected private entities more than \$500 in the aggregate.

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, Steven C. Reed, 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 June 2, 2010, and should include a reference to Commission Case No. AX-2010-0249. Comments may also be submitted via a filing using the Commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rule is scheduled for June 3, 2010 at 2:00 p.m. in Room 305 of 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.

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name	Type of Rulemaking
4 CSR 240-2.070 Complaints	Proposed Amendment to Rule 4 CSR 240-2.070

II. SUMMARY OF FISCAL IMPACT

Estimated number of entities that will likely be affected by adoption of the rule.	Types of entities that will likely be affected by adoption of the rule.	Estimated aggregate cost of compliance with the rule by the affected entities.
100	Large and small public utilities	Less than \$500.

III. WORKSHEET

IV. ASSUMPTIONS

If adopted, this proposed rule provides that hearings on complaints involving less than \$3,000 will be heard in the location where the complaining customer is served. Small utilities no longer need to travel to Jefferson City for hearings. Large utilities will send their representatives to the customer's location instead of Jefferson City. The PSC assumes the cost of compliance for large utilities will be about the same as they currently incur for traveling from St. Louis or Kansas City to Jefferson City. Small utilities will benefit from attending the hearing in the location where they operate and provide service.

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name	Type of Rulemaking
4 CSR 240-2.070 New Procedures for small complaints under \$3000	Proposed Amendment to Rule 4 CSR 240-2.070

II. SUMMARY OF FISCAL IMPACT

State agencies or political subdivisions that will likely be affected by adoption of the proposed rule.	Estimated aggregate cost of compliance with the proposed rule by the affected entities.
Public Service Commission Office of the Public Counsel	Approximately \$2,000. for travel expenses.

III. WORKSHEET

Not Applicable

IV. ASSUMPTIONS

If adopted, this proposed rule provides that hearings on small complaints involving less than \$3,000 will be heard in the area where the complaining customer takes utility services. Small companies and customers will not be required to travel to Jefferson City for the proceedings. A Regulatory Law Judge will travel to the location where the customer is located and hold a hearing in that area.

Small Business Regulator Fairness Board

Small Business Impact Statement

Date: 3/9/10

Rule Number: 4 CSR 240-2.070

Name of Agency Preparing Statement: Public Service Commission

Name of Person Preparing Statement: Steven Reed, General Counsel

Phone Number: 751-3015

Email: steven.reed@psc.mo.gov

Name of Person Approving Statement:

Please describe the methods your agency considered or used to reduce the impact on small businesses *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

None, the rule itself will reduce costs for small companies when complaints involving less than \$3000 are filed by customers because the company will not need to travel to Jefferson City for hearings. The hearing will be held where the customer is served and for small companies that is where the company is also located.

Please explain how your agency has involved small businesses in the development of the proposed rule.

Small businesses were not involved in drafting the rule.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

Costs to the PSC will include the expenses of food, lodging and transportation to various parts of the state. The PSC estimates the rule will result in approximately 20 additional travel dates per year. No additional fees will be imposed under the rule.

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

Small water and sewer companies will be subject to the rule. When complaints are filed by customers, the proceedings will take place in a city or county where the customer is located. The small business will be located there also. No adverse effects to small companies are expected.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

There are no direct costs of compliance to small water and sewer companies. The PSC anticipates additional costs of approximately \$2,000 for travel expenses incurred by the PSC.

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Small water and sewer companies will benefit from the rule because they will not be required to travel to Jefferson City for hearings on complaints. The hearing will take place in the area where the small company is serving customers.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes ____ No X

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.