

Administrative Rules Stamp

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JAN 21 2000

SECRETARY OF STATE  
ADMINISTRATIVE RULES DIVISION

REBECCA MCDOWELL COOK  
Secretary of State  
Administrative Rules Division  
RULE TRANSMITTAL

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

A. Rule Number 4 CSR 240-2.060  
Diskette File Name 2.060 rule (Word 97 format)  
Name of Person to call with questions about this rule:  
Context Bill Hopkins Phone 573-751-4255 FAX 573-751-1847  
Data Entry Lonnell Boyce Phone 573-751-3350 FAX 573-751-1847  
Interagency Mailing Address Truman Bldg., 301 W. High St., Room 530, Jefferson City, MO

Statutory Provision for Rulemaking

Authority § 386.410 Provide Most Current RSMo Year 1998

Date Filed With the Joint Committee on Administrative Rules Exempt per Sections 536.024 and 536.037, RSMo Supp. 1998, and Executive Order No. 97-97 (June 27, 1997)

B. CHECK, IF INCLUDED: FORMS, List by Mo-Form Number, # of Pages  
☒ Cover Letter  
☐ Affidavit  
☐ Cost Statements  
☐ Public Entity Fiscal Note OTHER  
☐ Private Entity Fiscal Note

C. RULEMAKING ACTION TO BE TAKEN

☐ Emergency Rulemaking, Must Specify Effective Date  
☐ Proposed Rulemaking (New Rule)  
☒ Order of Rulemaking (MUST complete page 2 of this transmittal)  
☐ Withdrawal (Rule, Amendment, Rescission or Emergency)  
☐ Rule Action Notice  
☐ In Addition

D. SPECIFIC INSTRUCTIONS: In this space indicate any special instructions (e.g., specify publication date preference, identify material incorporated by references, etc:)

**RULE TRANSMITTAL (PAGE 2)**

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-2.060

1a. Effective Date for the Order

Statutory 30 days ☒ or later 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 or rulemaking, indicating the specific section, subsection, subparagraph, part, etc., where each change is found.

1(A) was changed from:

(A) The legal name of each applicant, a statement of the nature of each applicant, whether a Missouri corporation, foreign corporation, partnership, proprietorship, or other business organization, the street and mailing address of the principal office or place of business of each applicant and each applicant's electronic mail address, fax number and telephone number, if any;  
to:

(A) The legal name of each applicant, a brief description of the legal organization of each applicant, whether a Missouri corporation, foreign corporation, partnership, proprietorship, or other business organization, the street and mailing address of the principal office or place of business of each applicant and each applicant's electronic mail address, fax number and telephone number, if any;

1(F) was changed from:

(F) If any applicant is a political subdivision, a specific reference to and a copy of the statutory provision or other authority under which it operates;  
to:

(F) If any applicant is a political subdivision, a specific reference to the statutory provision and a specific reference to any other authority, if any, under which it operates;

1(K) was changed from:

(K) A statement indicating whether the applicant has any pending or final judgments or decisions against it from any state or federal agency or court which involve customer service or rates;

to:

(K) A statement indicating whether the applicant has any pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of the application;

1(L) was changed from:

(L) A verified statement that no annual report or assessment fees are overdue; and

to:

(L) A statement that no annual report or assessment fees are overdue; and

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.

(3) was changed from:

(3) Competitive telecommunications companies are exempt from subsections (7)(A)--(D), (8)(A)--(E), and (11)(C)--(G) of this rule; however, they must file a pleading indicating which company will be holding the certificate of service authority and providing service to Missouri customers, and the tariff under which service will be provided.

To:

(3) Competitive telecommunications companies are exempt from subsections (7)(A)--(E), (8)(A)--(E), and (11)(C)--(G) of this rule; however, they must file a pleading indicating which company will be holding the certificate of service authority and providing service to Missouri customers, and the tariff under which service will be provided.

8(E) was changed from:

(E) An estimate of the impact of the merger on the company's Missouri jurisdictional operations and a list of all documents generated relative to the analysis of the merger and acquisition in question; and

to:

(E) An estimate of the impact of the merger on the company's Missouri jurisdictional operations relative to the merger and acquisition in question; and

15(A) was changed from:

(A) A description of the structure where the change of supplier is sought, and the street address of the structure;

to:

(A) A description of the structure where the change of supplier is sought, and the street address, if any, of the structure;

Note: The following language was mistakenly inserted in the February 2, 1999, version of Commission Rule 4 CSR 240-2.060, but should be omitted in the new rule:

"Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law."

The inclusion of this language in Commission Rule 4 CSR 240-2.060 was in error and this language should not be published in the new rule, which has the same number.



*Commissioners*

**SHEILA LUMPE**  
Chair

**HAROLD CRUMPTON**

**CONNIE MURRAY**

**ROBERT G. SCHEMENAUER**

**M. DIANNE DRAINER**  
Vice Chair

## *Missouri Public Service Commission*

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

January 21, 2000

**GORDON L. PERSINGER**  
Acting Executive Director  
Director, Research and Public Affairs

**WESS A. HENDERSON**  
Director, Utility Operations

**ROBERT SCHALLENBERG**  
Director, Utility Services

**DONNA M. KOLILIS**  
Director, Administration

**DALE HARDY ROBERTS**  
Secretary/Chief Regulatory Law Judge

**DANA K. JOYCE**  
General Counsel

Honorable Rebecca McDowell Cook  
Secretary of State  
600 West Main Street  
Jefferson City, Missouri 65101

ATTENTION: Administrative Rules Division

I do hereby certify that the attached are accurate and complete copies of the Orders of Rulemaking lawfully submitted by the Missouri Public Service Commission for filing this 21st day of January, 2000.

Rules: 4 CSR 240-2.010 – Definitions  
4 CSR 240-2.015 – Waiver of Rules  
4 CSR 240-2.040 – Practice Before the Commission  
4 CSR 240-2.050 – Computation of Time  
4 CSR 240-2.060 – Applications  
4 CSR 240-2.065 – Tariff Filings Which Create Cases  
4 CSR 240-2.070 – Complaints  
4 CSR 240-2.075 – Intervention  
4 CSR 240-2.080 – Pleadings, Filing, and Service  
4 CSR 240-2.085 – Protective Orders  
4 CSR 240-2.090 – Discovery and Prehearings  
4 CSR 240-2.100 – Subpoenas  
4 CSR 240-2.110 – Hearings  
4 CSR 240-2.115 – Nonunanimous Stipulations and Agreements  
4 CSR 240-2.116 – Dismissal  
4 CSR 240-2.120 – Presiding Officers  
4 CSR 240-2.125 – Procedures for Alternative Dispute Resolution  
4 CSR 240-2.130 – Evidence  
4 CSR 240-2.140 – Briefs and Oral Argument  
4 CSR 240-2.150 – Decisions of the Commission  
4 CSR 240-2.160 – Rehearings or Reconsideration  
4 CSR 240-2.180 – Rulemaking  
4 CSR 240-2.200 – Small Company Rate Increase Procedure

Honorable Rebecca McDowell Cook  
Page two  
January 21, 2000

Statutory authority: Section 386.410, RSMo Supp. 1998

Effective date of the rules: thirty days after publication in the *Code of State Regulations*

Missouri Public Service Commission Case Nos.: AX-2000-108 through AX-2000-128, and  
AX-2000-130 through AX-2000-131

If there are any questions, please contact: *(These rules are assigned to several regulatory law judges. Please refer to the transmittal form for the name, phone number and fax number of the regulatory law judge assigned to a particular rule.)*

BY THE COMMISSION

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive, flowing style.

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

DHR:jp

Enclosures: Packets for 23 Orders of Rulemaking  
Orders of Rulemaking in Word 97 format on 3-1/2" diskette

**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. 1998, the commission adopts a rule as follows:

**4 CSR 240-2.060 Applications 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 2321-2324). 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:** One comment was received which stated that Section (1) required too much information and that the rule should only apply to Subsections (1)(A), (I), and (J).

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

**COMMENT:** One comment suggested that the language in Subsection (1)(A) which requires a "statement of the nature of each applicant" was too vague and suggested using the phrase "a brief description of the legal organization of each applicant."

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

**COMMENT:** One comment suggested that the Commission does not have the authority to require an applicant to have and to provide an electronic mail address. The comment also stated that "In the case of a corporate applicant, it may have thousands of electronic mail addresses, or it may have none."

**RESPONSE:** The Commission has considered this comment and has made no change in response thereto. The Commission adds that if an applicant has no electronic mail address, it is not required to obtain one. The Commission also adds that an applicant with many electronic mail addresses need only choose one, similar to choosing one street address for an applicant with offices located in many different locations.

**COMMENT:** One comment stated that Subsection (1)(F) requires a political subdivision to include a cite to or a copy of the statutory provision(s) or other authority(ies) under which it operates. The comment stated that this provision might cause applicants to file a lot of citations or a lot of pages of photocopied materials.

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

COMMENT: There were several comments on Subsection (1)(K). Most of the comments described the difficulty with which applicants would have in keeping track of judgements against such applicants. Several comments suggested deleting the subsection altogether or, if the subsection were not deleted, then restricting its application time-wise.

RESPONSE: The Commission has considered these comments and has made a change in response thereto. The Commission also notes that the subsection merely calls for a statement concerning the existence of such a case or cases, not a list of the cases.

COMMENT: One comment on Subsection (1)(L) stated that the Commission should already know if any applicant has any overdue annual reports or assessment fees, thus this subsection is unnecessary.

RESPONSE: The Commission has considered this comment and has made no change in response thereto. However, the Commission has removed the word "verified" from the subsection since the statement concerning reports or fees must be made in an application which is verified; the use of the word in the subsection is redundant.

COMMENT: One comment suggested that the requirement in Subsection (8)(E) for an applicant to include a list of all documents generated relative to the analysis of a merger and acquisition should be deleted since it could result in very large applications.

RESPONSE: The Commission has considered this comment and has made a change in response thereto.

COMMENT: One comment suggested that the distinction between "variance" and "waiver" should be made in Subsection (14). Another comment stated that the Commission had no authority to waive any statutory provisions.

RESPONSE: The Commission has considered these comments and has made no change in response thereto.

COMMENT: One comment suggested that in Subsection (15)(A), the phrase "description of the structure" should be changed to "brief description of the type of structure". The comment also suggested that the phrase "if any" should be added following the phrase "the street address of the structure".

RESPONSE: The Commission has considered these comments and has made a change in response thereto.

COMMENT: Two comments suggested that Subsection (16) should be expanded to show that the Commission can only recognize name changes, not approve them.

RESPONSE: The Commission has considered these comments and has made no change in response thereto.

NOTE: A typographical error has been corrected in Subsection (3).

(1) All applications shall comply with the requirements of these rules and shall include the following information:

(A) The legal name of each applicant, a brief description of the legal organization of each applicant, whether a Missouri corporation, foreign corporation, partnership, proprietorship, or

other business organization, the street and mailing address of the principal office or place of business of each applicant and each applicant's electronic mail address, fax number and telephone number, if any;

(B) If any applicant is a Missouri corporation, a Certificate of Good Standing from the secretary of state;

(C) If any applicant is a foreign corporation, a certificate from the secretary of state that it is authorized to do business in Missouri;

(D) If any applicant is a partnership, a copy of the partnership agreement;

(E) If any applicant does business under a fictitious name, a copy of the registration of the fictitious name with the secretary of state;

(F) If any applicant is a political subdivision, a specific reference to the statutory provision and a specific reference to any other authority, if any, under which it operates;

(G) If any applicant has submitted the applicable information as set forth in subsections (1)(B)--(F) of this rule in a previous application, the same may be incorporated by reference to the case number in which the information was furnished, so long as such applicable information is current and correct;

(H) A brief statement of the character of business performed by each applicant;

(I) Name, title, address and telephone number of the person to whom correspondence, communications and orders and decision of the commission are to be sent, if other than to the applicant's legal counsel;

(J) If any applicant is an association, a list of all of its members;

(K) A statement indicating whether the applicant has any pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of the application;

(L) A statement that no annual report or assessment fees are overdue; and

(M) All applications shall be subscribed and verified by affidavit under oath by one (1) of the following methods: if an individual, by that individual; if a partnership, by an authorized member of the partnership; if a corporation, by an authorized officer of the corporation; if a municipality or political subdivision, by an authorized officer of the municipality or political subdivision; or by the attorney for the applicant if the application includes or is accompanied by a verified statement that the attorney is so authorized; and

(3) Competitive telecommunications companies are exempt from subsections (7)(A)--(E), (8)(A)--(E), and (11)(C)--(G) of this rule; however, they must file a pleading indicating which company will be holding the certificate of service authority and providing service to Missouri customers, and the tariff under which service will be provided.

(8) In addition to the requirements of subsection (1), applications for authority to merge or consolidate shall include:

(A) A copy of the proposed plan and agreement of corporate merger and consolidation, including organizational charts depicting the relationship of the merging entities before and after the transaction;

(B) A certified copy of the resolution of the board of directors of each applicant authorizing the proposed merger and consolidation;



(C) The balance sheets and income statements of each applicant and a balance sheet and income statement of the surviving corporation;

(D) The reasons the proposed merger is not detrimental to the public interest;

(E) An estimate of the impact of the merger on the company's Missouri jurisdictional operations relative to the merger and acquisition in question; and

(F) For gas, electrical, water, sewer and telecommunications companies, a statement of the impact, if any, the merger or consolidation will have on the tax revenues of the political subdivision in which any structures, facilities or equipment of the companies involved are located.

(15) In addition to the requirements of subsection (1), applications for commission authority for a change of electrical suppliers shall include:

(A) A description of the type of structure where the change of supplier is sought, and the street address, if any, of the structure;

(B) The name and address of the electrical supplier currently providing service to the structure;

(C) The name and address of the electrical supplier to which the applicant wishes to change;

(D) The applicant's reasons for seeking a change of supplier;

(E) If the applicant's reasons involve service problems, a description of the problems and dates of occurrence, if known;

(F) If the applicant's reasons involve service problems, a description of the contacts which applicant has had with the current supplier regarding the problems, if any, and what efforts the current supplier has made to solve the problems, if any;

(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.