



Commissioners

STEVE GAW  
Chair

CONNIE MURRAY

KELVIN L. SIMMONS

BRYAN FORBIS

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.mo.gov>

ROBERT J. QUINN, JR.  
Executive Director

WESS A. HENDERSON  
Director, Utility Operations

ROBERT SCHALLENBERG  
Director, Utility Services

DONNA M. PRENGER  
Director, Administration

DALE HARDY ROBERTS  
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE  
General Counsel

October 24, 2003

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

**Re:** Proposed Amendments to Rules 4 CSR 240-33.010, 4 CSR 240-33.020,  
4 CSR 240-33.040, 4 CSR 240-33.070, 4 CSR 240-33.080, 4 CSR 240-33.110, 4  
CSR 240-33.150, and 4 CSR 240-3.555, and Rescission of 4 CSR 240-33.030  
Service and Billing Practices for Telecommunications Companies.  
*No. TX-2001-512*

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 or rules affect 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 modifications updating the Commission's annual report submission regulations affect small businesses. I have determined that the proposed rule amendments listed above do not affect small businesses in a direct and significant manner, nor do they directly relate to the formation, operation or expansion of a small business.

The rule modifications listed above are designed to update the Commission's rules to provide consumers a better understanding of their bill and the ability to control what type of calls are made from their telephone or what items are charged on their telephone bill. None of these amendments will have any direct and significant economic burden upon small businesses.

October 24, 2003

Page 2

Therefore, preparation of a small business impact statement is not required for these rule amendments.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "David A. Meyer".

David A. Meyer

Associate General Counsel

(573) 751-8706

(573) 751-9285 (Fax)



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4 CSR 240-33.040, 4 CSR 240-33.060, 4 CSR 240-33.070, 4 CSR 240-33.080,  
4 CSR 240-33.110, 4 CSR 240-33.150, and 4 CSR 240-3.555, and Rescission of  
4 CSR 240-33.030  
Service and Billing Practices for Telecommunications Companies.  
*No. TX-2001-512*

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 amendments are designed to update the Commission's rules to provide consumers a better understanding of their bill and the ability to control what type of calls are made from their telephone or what items are charged on their telephone bill.

The proposed rule amendments do not implicate the takings clause of the U.S. Constitution, because they do not involve the taking of real property.

October 24, 2003

Page 2

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

Sincerely yours,

A handwritten signature in cursive script, appearing to read "David A. Meyer".

David A. Meyer  
Associate General Counsel  
(573) 751-8706  
(573) 751-9285 (Fax)

**MATT BLUNT**  
Secretary of State  
Administrative Rules Division  
RULE TRANSMITTAL

\*Administrative Rules Stamp

**RECEIVED**

JAN 28 2004

SECRETARY OF STATE  
ADMINISTRATIVE RULES

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

A. Rule Number 4 CSR 240-33.020  
Diskette File Name Rule 240-33.020  
Name of Person to call with questions about this rule:  
Content David Meyer Phone 573-751-8706 FAX 573-751-9285  
Data Entry Tammy Vieth Phone 573-751-8377 FAX 573-751-9285  
Email Address david.meyer@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 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 _____          | <input checked="" type="checkbox"/> Private cost                       |
| <input 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).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ICAR 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.

(Start text here. If text continues to a third page, insert a continuous section break and, in **section 3**, delete the footer text. DO NOT delete the header, however.)

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*

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Secretary/Chief Regulatory Law Judge

DANA K. JOYCE  
General Counsel

January 28, 2004

Hon. Matt Blunt  
Secretary of State  
Administrative Rules Division  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Blunt,

Re: Proposed Amendment to Rule 4 CSR 240-33.020  
Definitions.

CERTIFICATION OF ADMINISTRATIVE RULE

I 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 28th day of January 2004.

The Missouri Public Service Commission has determined and hereby certifies that this proposed amendment 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 amendment 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:

David Meyer, Associate General Counsel  
P.O. Box 360  
Jefferson City, MO 65102  
(573) 751-8706, FAX (573) 751-9285  
[david.meyer@psc.mo.gov](mailto:david.meyer@psc.mo.gov)

BY THE COMMISSION

A handwritten signature in dark ink, appearing to read 'Dale Hardy Roberts', written over a horizontal line.

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge



AFFIDAVIT


RECEIVED

FEB 05 2004

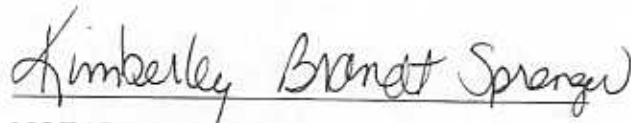
SECRETARY OF STATE  
ADMINISTRATIVE RULES

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 Amendment of 4 CSR 240-33.020 Definitions**, 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 5<sup>th</sup> day of February, 2004.  
I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on April 29, 2006.

  
NOTARY PUBLIC

KIMBERLEY BRANDT SPRENGER  
NOTARY PUBLIC STATE OF MISSOURI  
COLE COUNTY  
MY COMMISSION EXP. APR. 29, 2006

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT**

**Division 240—Public Service Commission  
Chapter 33—Service and Billing Practices  
for Telecommunications Companies**

**COPY RECEIVED**

**JAN 28 2004**

**SECRETARY OF STATE  
ADMINISTRATIVE RULES**

**PROPOSED AMENDMENT**

**4 CSR 240-33.020 Definitions.** The Public Service Commission is amending 4 CSR 240-33.020 to include definitions for terms contained in additional amendments throughout Chapter 33.

*PURPOSE: This amendment adds definitions for casual calling customer, cyclical billing, passcode, presubscribed customer, traffic aggregator and transient customer. The amendment incorporates minor text corrections.*

(3) Basic local telecommunications service is basic local telecommunications service as defined in section 386.020(4), RSMo [Supp 1998]2000.

(7) Casual Calling Customer is an unidentifiable customer that accesses the telephone network by a dial around pattern such as 10-10-XXX.

([7] 8) Complaint is a complaint as defined in 4 CSR 240-2.070.

([8] 9) Customer is any individual that accepts financial and other responsibilities in exchange for telecommunications service.

(10) Cyclical billing results when the bill is rendered on or about the same day of each month.

([10] 11) Delinquent account is an account which has undisputed charges that are not paid in full by the due date.

([11] 12) Deposit is a money advance to a telecommunications company for the purpose of securing payment for telecommunications services.

([12] 13) Discontinuance of service or discontinuance is a cessation of service not requested by a customer.

([13] 14) Guarantee is a written promise from a responsible party to assume liability.

([14] 15) In dispute is any matter regarding a charge or service which is the subject of an unresolved inquiry.

([15] 16) Inquiry is any written, electronic or oral comment or question regarding a charge or service.

([16]17) Letter of agency is a letter or other document sent by a customer to a telecommunications company authorizing the telecommunications company to change the telecommunications service provider for that customer.

([17]18) New customer is any customer who has no prior service history with the telecommunications company with whom service is being requested.

([18]19) Operator Services is Operator Services as defined in section 386.020(37), RSMo [Supp. 1998] 2000.

**(20) Passcode is a valid password or personal identification number that must be entered to access toll services.**

([19]21) Pay telephone is a coin or non-coin telephone installed for use by the general public from which calls can be paid for at the time they are made by means of coins, tokens, credit cards, debit cards or a billing to an alternate number.

([20]22) Preferred Payment Date Plan is a plan in which the due date for the charges stated on a bill is the same date in each billing period as selected by the customer.

**(23) Presubscribed customer is any customer of record of the telecommunications company.**

([21]24) Prospective customer is any individual with whom or by whom service is being requested.

([22]25) Rendition of a bill is the date a bill is mailed, posted electronically or otherwise sent to a customer.

([23]26) Settlement agreement is an agreement between a customer and a telecommunications company which resolves any matter in dispute between the parties or provides for the payment of undisputed charges over a period longer than the customer's normal billing period.

([24]27) Tariff is a statement by a telecommunications company that sets forth the services offered by that company, and the rates, terms and conditions for the use of those services.

([25]28) Telecommunications company is a telephone corporation as defined in section 386.020(51), RSMo [Supp. 1998] 2000.

([26]29) Termination of service or termination is a cessation of service requested by a customer.

**(30) Traffic aggregator is an entity that provides transient customer access to telecommunications services, i.e., a hotel owner or a payphone owner.**

(31) Transient customer is a user that is an unidentifiable customer that accesses telecommunications services through the use of a traffic aggregator such as payphones or hotels.

*AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 2000. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Rescinded and readopted: Filed August 26, 1999, effective April 30, 2000.*

*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 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 rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments must be received at the Commission's offices within thirty (30) days of publication in the Missouri Register, and should include a reference to Commission Case No. TX-2001-512. 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 is scheduled for April 23, 2004, at 10:00 A.M., in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, for interested persons to appear and 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 of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.*

## MEMORANDUM

**TO:** Dale Hardy Roberts, Secretary

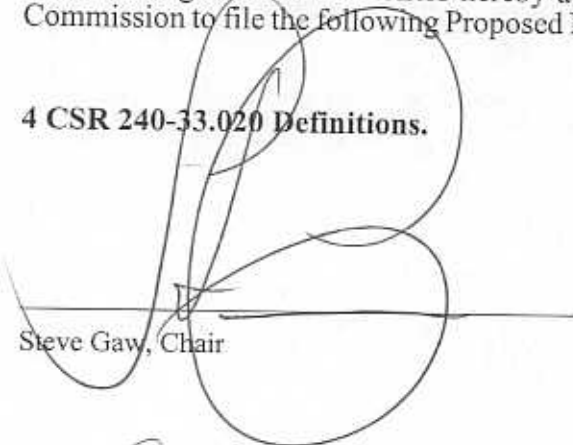
**DATE:** January <sup>27</sup> 13, 2004

**RE:** Authorization to File Proposed Rulemaking with the Office of Secretary of State


**CASE NO:** TX-2001-512

The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file the following Proposed Rulemaking with the Office of Secretary of State, to wit:


**4 CSR 240-33.020 Definitions.**



Steve Gaw, Chair



Connie Murray, Commissioner



Robert Clayton III, Commissioner