



Robin Carnahan
Secretary of State

**Administrative Rules Division
Rulemaking Transmittal Receipt**

FILED³
OCT 12 2006
Missouri Public
Service Commission

Rule ID: 6036
Date Printed: 10/11/2006
Rule Number: 4 CSR 240-3.545
Rulemaking Type: Final Order Amendment
Date Submitted to Administrative Rules Division: 10/11/2006
Date Submitted to Joint Committee on Administrative Rules: 9/8/2006

Name of Person to Contact with questions concerning this rule:

Content: Colleen Dale	Phone: 751-4255	Email: cully.dale@psc.mo.gov	Fax: 751-9285
RuleDataEntry:	Phone:	Email:	Fax:

Included with Rulemaking:

Cover Letter

10/11/2006

Print Close

Robin Carnahan

Secretary of State

Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

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SECRETARY OF STATE
ADMINISTRATIVE RULES

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

A. Rule Number 4 CSR 240-3.545

Diskette File Name Final Rule 3.545

Name of person to call with questions about this rule:

Content Colleen M. Dale Phone 573-751-4255 FAX 573-751-6010

E-mail address cully.dale@psc.mo.gov

Data entry Colleen M. Dale Phone 573-751-4255 FAX 573-751-6010

E-mail address cully.dale@psc.mo.gov

Interagency mailing address GOB, 200 Madison Street, 8th Floor Jefferson City, MO

Statutory Authority 386.250 Current RSMo date 2000

Date filed with the Joint Committee on Administrative Rules September 8, 2006

B. CHECKLIST guide for rule packets:

- | | |
|--|---|
| <input checked="" type="checkbox"/> This transmittal completed | <input type="checkbox"/> Forms, number of pages <u> </u> |
| <input checked="" type="checkbox"/> Cover letter | <input type="checkbox"/> Authority section with history of the rule |
| <input type="checkbox"/> Affidavit | <input type="checkbox"/> Public cost statement |
| <input type="checkbox"/> Small business impact statement | <input type="checkbox"/> Private cost statement |
| <input type="checkbox"/> Fiscal notes | <input type="checkbox"/> Hearing date |

C. RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination

MUST include effective date

☐ Proposed Rulemaking (choose one) ☐ rule, ☐ amendment, or ☐ rescission

☒ Order of Rulemaking (choose one) ☐ rule, ☒ amendment, ☐ rescission, or ☐ termination

MUST complete page 2 of this transmittal

☐ Withdrawal (choose one) ☐ rule, ☐ amendment, ☐ rescission or ☐ emergency)

☐ Rule action notice ☐ In addition ☐ Rule under consideration

D. SPECIFIC INSTRUCTIONS: Any additional information you may wish to provide to our staff

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON

SEP 8 2006

ADMINISTRATIVE RULES

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number 3.545

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. Give an explanation of each section, subsection, etc. which has been changed since the proposed rulemaking was published in the Register.

(16) Requirements for tariff filings pursuant to Section 392.500 RSMo.

(A) The commission shall be notified at least ten (10) days in advance of a proposed increase in rates or charges or a proposed change in any classification or tariff resulting in an increase in rates or charges for competitive telecommunications services.

1. A proposed increase in rates or charges or a proposed change in any classification or tariff resulting in an increase in rates or charges pursuant to Section 392.500 is defined as a rate increase to existing rates or charges for any competitive service.

2. No other tariff changes, except as directed by commission order or as allowed under section (19) below, are permitted on ten (10) days notice.

3. Commission notice shall be in the form of a tariff filing with a proposed effective date that is ten (10) days after the tariff has been filed.

(B) The commission shall be notified at least one (1) day in advance of a proposed decrease in rates or charges or a proposed change in any classification or tariff resulting in a decrease in rates or charges for competitive telecommunications services.

1. A proposed decrease in rates or charges or a proposed change in any classification or tariff resulting in a decrease in rates or charges pursuant to Section 392.500 is defined as:

A. A rate decrease to existing rates or charges for any competitive service.

B. A proposal to establish or revise a package of services involving a regulated intrastate service provided all regulated intrastate telecommunications services in the package are currently tariffed on an individual basis.

2. No other tariff changes, except as directed by commission order, are permitted on one (1) days notice.

3. Commission notice shall be in the form of a tariff filing with a proposed effective date that is one (1) day after the tariff has been filed.

(C) A thirty (30)-day tariff filing is required to introduce or revise the terms and conditions of any competitive service available on an individual basis. A thirty (30)-day tariff filing is required to eliminate any package of services.

Explanation of changes:

In addition to a decrease in rates or charges, Section 392.500 RSMo and the proposed amendment also allow, on one days notice, a "proposed change in any classification or tariff resulting in a decrease in rates or charges" for a competitive telecommunications service. The Staff suggested that this phrase needs clarification. This suggestion was explored at the hearing. The commission agrees the phrase requires clarification. The proposed amendment will be modified to provide clarification to the phrase and the rule.

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

JEFF DAVIS
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

Missouri Public Service Commission

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JEFFERSON CITY MISSOURI 65102
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WESS A. HENDERSON
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DANA K. JOYCE
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Director, Utility Services

WARREN WOOD
Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

KEVIN A. THOMPSON
General Counsel

October 11, 2006

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

Dear Secretary Carnahan:

Re: Proposed Amendment to Rule 4 CSR 240-3.545, Filing Requirements for Telecommunications Company Tariffs

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the final order of rulemaking lawfully submitted by the Missouri Public Service Commission for filing on this 11th day of October, 2006.

Statutory Authority: Section 386.250 RSMo 2000.

If there are any questions, please contact: Colleen M. Dale, Secretary
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-4255
cully.dale@psc.mo.gov

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Colleen M. Dale".

Colleen M. Dale
Secretary

Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 3 – Filing and Reporting Requirements

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SECRETARY OF STATE
ADMINISTRATIVE RULES

Order of Rulemaking

By the authority vested in the Public Service Commission under section 386.250 RSMo 2000, the Commission amends a rule as follows:

4 CSR 240-3.545 Filing Requirements for Telecommunications Company Tariffs is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2006 (31 MoReg 902). The section with a change is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*

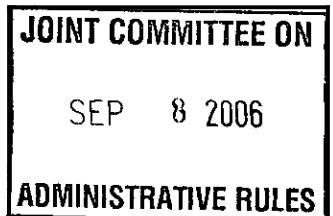
SUMMARY OF COMMENTS: Leo Bub filed written comments for Southwestern Bell Telephone, L.P., d/b/a AT&T Missouri. John Idoux filed written comments for Embarq Missouri, Inc. and Embarq Communications, Inc. (collectively Embarq). Michael Dandino filed written comments for the Office of the Public Counsel. Larry Dority filed written comments for CenturyTel of Missouri, LLC and Spectra Communications Group, LLC d/b/a CenturyTel (collectively, CenturyTel). Natelle Dietrich filed written comments for the Staff of the Missouri Public Service Commission. Those written comments support the proposed amendment of 4 CSR 240-3.545(16) to allow rate decreases for competitive telecommunications services on one days notice to the commission. Embarq recommended that additional tariff filings should be allowed on one days notice to the commission. At the public hearing held on July 20, 2006, Embarq's recommendation was discussed.

COMMENT: The five commenters support the proposed amendment to allow rate decreases for competitive telecommunications services on one days notice rather than seven days notice because the amendment reflects that section 392.500 RSMo was amended by SB 237 to allow such rate decreases on one days notice to the commission.

RESPONSE: No changes have been made to the amendment as a result of these comments:

COMMENT: In addition to a decrease in rates or charges, Section 392.500 RSMo and the proposed amendment also allow, on one days notice, a "proposed change in any classification or tariff resulting in a decrease in rates or charges" for a competitive telecommunications service. This Staff suggests that this phrase needs clarification.

RESPONSE: This suggestion was explored at the hearing. The commission agrees the phrase requires clarification. The proposed amendment will be modified to provide clarification to the phrase and the rule.



COMMENT: Embark recommends the commission take this opportunity to review the notice requirements for all tariff changes including: (a) changes to the terms and conditions of existing services; (b) the introduction of new services; and (c) the elimination of existing services.

RESPONSE: Embark's recommendation is beyond the scope of this rulemaking. The notice of proposed rulemaking states that the commission is amending section (16) of 4 CSR 240-3.545. Section (16) implements section 392.500 RSMo. The notice of proposed rulemaking states as the purpose of the proposed amendment:

This rule is being modified to allow rate decreases for competitive telecommunications on one (1) – day's notice to create consistently with changes to Missouri's telecommunications laws.

As noted above, SB 237 had amended section 392.500 by shortening the minimum notice period for rate decreases for competitive telecommunications services from 7 days to one day. No change has been made to the amendment as a result of this comment.

4 CSR 240-3.545 Filing Requirements for Telecommunications Company Tariffs

(16) Requirements for tariff filings pursuant to Section 392.500 RSMo.

(A) The commission shall be notified at least ten (10) days in advance of a proposed increase in rates or charges or a proposed change in any classification or tariff resulting in an increase in rates or charges for competitive telecommunications services.

1. A proposed increase in rates or charges or a proposed change in any classification or tariff resulting in an increase in rates or charges pursuant to Section 392.500 is defined as a rate increase to existing rates or charges for any competitive service.

2. No other tariff changes, except as directed by commission order or as allowed under section (19) below, are permitted on ten (10) days notice.

3. Commission notice shall be in the form of a tariff filing with a proposed effective date that is ten (10) days after the tariff has been filed.

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1. A proposed decrease in rates or charges or a proposed change in any classification or tariff resulting in a decrease in rates or charges pursuant to Section 392.500 is defined as:

A. A rate decrease to existing rates or charges for any competitive service.

B. A proposal to establish or revise a package of services involving a regulated intrastate service provided all regulated intrastate telecommunications services in the package are currently tariffed on an individual basis.

2. No other tariff changes, except as directed by commission order, are permitted on one (1) days notice.

3. Commission notice shall be in the form of a tariff filing with a proposed effective date that is one (1) day after the tariff has been filed.

(C) A thirty (30)-day tariff filing is required to introduce or revise the terms and conditions of any competitive service available on an individual basis. A thirty (30)-day tariff filing is required to eliminate any package of services.