

# MEMORANDUM

FILED

JAN 16 2007

**TO:** Colleen M. Dale, Secretary

**DATE:** December 12, 2006

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

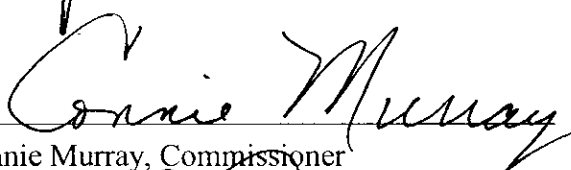
**CASE NO:** TX-2007-0086

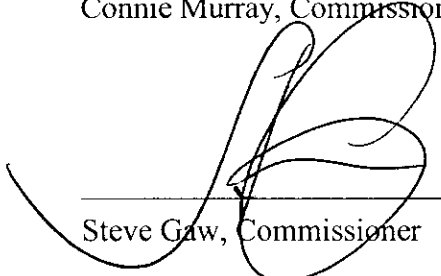
Missouri Public  
Service Commission

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

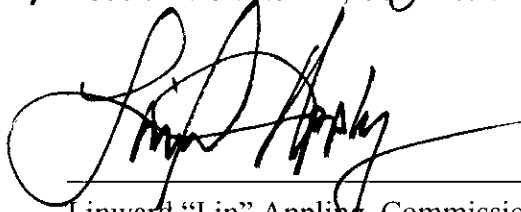
**Proposed Rule 4 CSR 240-37.040 – Number Pooling and Number Conservation Efforts – Requests for Review of the Decisions of the North American Numbering Plan Administrator or the Thousands-Block Pooling Administrator**

  
\_\_\_\_\_  
Jeff Davis, Chairman

  
\_\_\_\_\_  
Connie Murray, Commissioner

  
\_\_\_\_\_  
Steve Gaw, Commissioner

  
\_\_\_\_\_  
Robert M. Clayton III, Commissioner

  
\_\_\_\_\_  
Linward "Lin" Appling, Commissioner

# Robin Carnahan

Secretary of State

Administrative Rules Division  
RULE TRANSMITTAL

Administrative Rules Stamp

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SECRETARY OF STATE  
ADMINISTRATIVE RULES

COPY

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

- A. Rule Number 4 CSR 240- 37.040  
Diskette File Name 4 CSR 240-37.040  
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, 8<sup>th</sup> Floor Jefferson City, MO  
Statutory Authority 386.250 Current RSMo date 2000  
Date filed with the Joint Committee on Administrative Rules December 13, 2006
- B. CHECKLIST guide for rule packets:
- |  |   |
|--|---|
| <input checked="" type="checkbox"/> This transmittal completed | <input type="checkbox"/> Forms, number of pages _____               |
| <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 March 30, 2007
- ☐ 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

DEC 13 2006

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**RULE TRANSMITTAL (PAGE 2)**

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**E. ORDER OF RULEMAKING: Rule Number 37.040**

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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.

**4 CSR 240-37.040 - Requests for Review of the Decisions of the North American Numbering Plan Administrator or the Thousands-block Pooling Administrator**

3. A copy of the carrier's original request to NANPA or the PA, a copy of the carrier's Part 1a, a copy of the NANPA or PA response/confirmation Part 3; **and**

*[4. A copy of the customer's request for specific numbering resources, if applicable;*

*5. A detailed explanation of the carrier's inability to meet the specific customer request;*

*6. A detailed explanation as to why the assignment is reasonable; and*

**7/4. A demonstration that the carrier has a verifiable need for numbering resources and has exhausted all other available remedies designed to conserve numbering resources (examples include but are not limited to a copy of the customer request detailing the specific need for telephone numbers and the reason the carrier cannot meet the specific customer request).**

**(B) A carrier that fails to provide any items in section (1)(A) above or fails to demonstrate a verifiable need and exhaust all other available remedies as required by section (1)(A)4 above shall be denied numbering resources.**

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  
573-751-3234  
573-751-1847 (Fax Number)  
<http://www.psc.mo.gov>

**WESS A. HENDERSON**  
Executive Director

**DANA K. JOYCE**  
Director, Administration

**ROBERT SCHALLENBERG**  
Director, Utility Services

**WARREN WOOD**  
Director, Utility Operations

**COLLEEN M. DALE**  
Secretary/Chief Regulatory Law Judge

**KEVIN A. THOMPSON**  
General Counsel

January 15, 2007

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

Dear Secretary Carnahan:

Re: 4 CSR 240-37.040 Requests for Review of Decisions of the North American Numbering Plan Administrator or Thousands-Block Pooling Administrator

**CERTIFICATION OF ADMINISTRATIVE RULE**

I do hereby certify that the attached is an accurate and complete copy of the order of rulemaking lawfully submitted by the Missouri Public Service Commission for filing on this 15<sup>th</sup> day of January, 2007.

Statutory Authority: Sections 386.250(6) RSMo 2000

If there are any questions regarding the content of this order of rulemaking, 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](mailto:cully.dale@psc.mo.gov)

BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Colleen M. Dale", is written over a horizontal line.

Colleen M. Dale  
Secretary  
Missouri Public Service Commission

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Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 240 – Public Service Commission  
Chapter 37 – Number Pooling and Number Conservation Efforts

JAN 16 2007

SECRETARY OF STATE  
ADMINISTRATIVE RULES

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.210.2 RSMo Supp 2005 and 386.250(2) RSMo 2000, the Public Service Commission adopts a rule as follows:

**4 CSR 240-37.040** Requests for Review of the Decisions of the North American Numbering Plan Administrator or Thousands-Block Pooling Administrator is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 1, 2006 (31 MoReg 1763). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The written public comment period ended December 4, 2006 as the commission held the record open until the conclusion of the public hearing, and the commission held a public hearing on this proposed rule on December 4, 2006. The commission received written comments pertaining to this rule and several of those commenters testified at the public hearing. Natelle Dietrich of the commission's staff filed comments and testified at the public hearing generally in support of the rule. Counsel from the Office of the Public Counsel filed comments and testified at the public hearing generally in support of the rule.

RESPONSE: No changes have been made to the rule as a result of the general comments.

COMMENT: Robert Gryzmala on behalf of AT&T Missouri testified in hearing that the reporting requirement in subparagraph 37.040(1)(A)7 exceeds the scope of the commission's authority to seek information from carriers. Mr. Gryzmala also indicated that the language indicating companies should demonstrate the carrier has a verifiable need for the assignment and has exhausted all other remedies is vague and unclear. At the public hearing, Larry Dority on behalf of CenturyTel joined in AT&T Missouri's comments.

RESPONSE AND EXPLANATION OF CHANGE: The Federal Communications Commission has directed the commission to make a finding as to whether a service provider has inappropriately assigned numbers if they are assigned from uncontaminated blocks prior to assigning all available telephone numbers within an opened thousands-block. The commission initially proposed this rule to implement this requirement. The commission will modify the rule to incorporate changes proposed by the commission's staff to clarify the reporting requirements and information the commission will consider in determining whether the assignment was inappropriate.

COMMENT: Natelle Dietrich on behalf of the staff of the commission filed comments and testified at hearing that the commission's staff supported the rule but recommended adding subsection (2) to the rule to clarify that if a carrier fails to provide the information required by

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the rule or fails to demonstrate a verifiable need for additional number resources and that all other remedies have been exhausted, then the commission will deny the numbering request.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that the rule should be modified to incorporate its staff's suggestion because federal rules clearly require the commission to make this finding before overriding decisions of the North American Numbering Plan Administrator.

#### **4 CSR 240-37.040 Requests for Review of the Decisions of the North American Numbering Plan Administrator or Thousands-Block Pooling Administrator**

(1) A carrier that requests the commission overturn a decision of the North American Numbering Plan Administrator (NANPA) or the Thousands-block Pooling Administrator (PA) to deny a carrier's request for additional numbering resources shall file an application with the commission.

(A) The burden is on the carrier requesting review to demonstrate that deviation from the growth numbering resource requirements is warranted; therefore, applications for growth numbering resources shall include, but not be limited to, the following:

1. A Months-to-Exhaust Worksheet that provides utilization by rate center for the preceding six (6) months and projected monthly utilization for the next twelve (12) months;
2. The carrier's current numbering resource utilization level, FCC Form U1 of Form 502, for the rate center in which it is seeking growth numbering resources;
3. A copy of the carrier's original request to NANPA or the PA, a copy of the carrier's Part 1a, a copy of the NANPA or PA response/confirmation Part 3; and
4. A demonstration that the carrier has a verifiable need for numbering resources and has exhausted all other available remedies designed to conserve numbering resources (examples include but are not limited to a copy of the customer request detailing the specific need for telephone numbers and the reason the carrier cannot meet the specific customer request).

(B) A carrier that fails to provide any items in section (1)(A) above or fails to demonstrate a verifiable need and exhaust all other available remedies as required by section (1)(A)4 above shall be denied numbering resources.



**Robin Carnahan**  
**Secretary of State**

**Administrative Rules Division**  
**Rulemaking Transmittal Receipt**

Rule ID: 6372  
Date Printed: 1/16/2007  
Rule Number: 4 CSR 240-37.040  
Rulemaking Type: Final Order Rule  
Date Submitted to Administrative Rules Division: 1/16/2007  
Date Submitted to Joint Committee on Administrative Rules: 12/13/2006

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**Name of Person to Contact with questions concerning this rule:**

Content: Collen Dale	Phone: 751-4255	Email: cully.dale@psc.mo.gov	Fax: 526-6010
RuleDataEntry:	Phone:	Email:	Fax:

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**Included with Rulemaking:**

Cover Letter

1/16/2007