

MEMORANDUM

FILED

JAN 16 2007

TO: Colleen M. Dale, Secretary

DATE: December 12, 2006

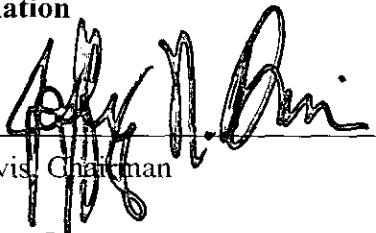
RE: Authorization to File Proposed Rulemaking with the Office of Secretary of State

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 240-37.050 – Number Pooling and Number Conservation Efforts – Reclamation



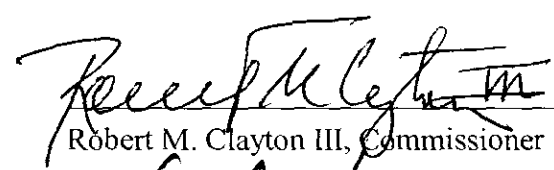
Jeff Davis, Chairman



Connie Murray, Commissioner



Steve Gaw, Commissioner



Robert M. Clayton III, Commissioner



Linward "Lin" Applegate, Commissioner

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- 37.050

Diskette File Name 4 CSR 240-37.050

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 December 13, 2006

B. CHECKLIST guide for rule packets:

☒ This transmittal completed

☒ Cover letter

☐ Affidavit

☐ Small business impact statement

☐ Fiscal notes

☐ Forms, number of pages _____

☐ Authority section with history of the rule

☐ Public cost statement

☐ Private cost statement

☐ 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

ADMINISTRATIVE RULES

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number 37.050

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 240-37.050 Reclamation

(2) All carriers, except exempt carriers, shall donate thousands-blocks with ten (10) percent or less contamination to the thousands-block number pool for the rate center within which the numbering resources are assigned **unless the following conditions exist.**

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

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

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 240-37.050 Reclamation

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 15th 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

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 240-37.050 Reclamation 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 1763-64). 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. Wireless carriers T-Mobile Central LLC d/b/a T-Mobile, Verizon Wireless, Cingular Wireless and Sprint Nextel Corporation through counsel filed comments generally opposed to the rule because the commission lacks jurisdiction to adopt the proposed rules and the proposed rules conflict with the federal regulatory framework or impose unnecessary and problematic obligations that interfere with the commission's goals.

RESPONSE: No changes have been made to the rule as a result of the general comments. The Commission's authority to promulgate the rule, in addition to its general authority under Section 386.250(2) RSMo. (2000) to supervise telecommunications companies, is supported by a series of decisions by the Federal Communications Commission granting to the Missouri Public Service Commission the authority to implement mandatory thousands-block number pooling and other number conservation efforts in all parts of the state. In its Order in CC Docket 99-200 adopted July 20, 2000, the Federal Communications Commission stated that "[n]umbering resource optimization measures are necessary to address the considerable burdens imposed on society by the inefficient use of numbers; thus, we have enlisted the state regulatory commissions to assist the FCC in these efforts by delegating significant authority to them to implement certain measures within their local jurisdictions." Order at 7, para. 10. The delegations of authority include most recently the Order and Fifth Further Notice of Proposed Rulemaking adopted February 17, 2006 in In the Matter of Numbering Resource Optimization and Petition of the Missouri Public Service Commission for Additional Delegated Authority to Implement Number Conservation Measures, CC Docket No. 99-200 (FCC 06-14), where the FCC granted this Commission authority to implement mandatory thousands-block number pooling in the 417, 573, 636 and 660 NPAs. The Federal Communications Commission had previously delegated similar authority to this Commission for the other area codes in Missouri.

JOINT COMMITTEE ON

DEC 13 2006

ADMINISTRATIVE RULES

Section 386.210(2) provides that the Commission may "act as an agent or licensee for the United States of America, or any official, agency or instrumentality thereof," and thus the Commission has additional authority under this statutory section to carry out the FCC's directives.

COMMENT: The Missouri Independent Telephone Group submitted comments and testified at the public hearing that as proposed, section 37.030(1) required all carriers except "exempt" carriers to implement pooling immediately. Similar concerns apply to the requirements of this section. Because thousands blocks cannot be assigned outside their rate centers, if blocks with assigned numbers are pooled, companies will have to implement local number portability even though they are otherwise exempt to accommodate those customers. Thus, the Missouri Independent Telephone Group requested that the commission clarify that rural telecommunications companies have no obligation to pool or implement local number portability in advance of actual competition. The Small Telephone Company Group submitted comments and testified at the public hearing that the rule as proposed would require its members to return both contaminated and uncontaminated thousands blocks even though they could not be used in other rate centers, and local number portability would be necessary to maintain service to existing customers even as the Federal Communications Commission has said that its members are exempt from local number portability requirements until they receive a bona fide request to port numbers. Natelle Dietrich on behalf of the staff of the commission submitted comments and testified at the public hearing that the commission should modify the rule as proposed to indicate that small rural ILECs that have the technical capability to provide local number portability should only donate back uncontaminated thousands blocks. She believes this proposal addresses the concerns raised by the Missouri Independent Telephone Group and the Small Telephone Group.

RESPONSE: The commission does not need to make this change because the concerns raised by the commenters have been addressed by the commission in changes to sections 37.020 and 37.030.

COMMENT: Wireless carriers T-Mobile Central LLC d/b/a T-Mobile, Verizon Wireless, Cingular Wireless and Sprint Nextel Corporation through counsel filed comments requesting that the commission track the Federal Communications Commission's rule more closely in section 37.050(2).

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that it is appropriate to modify the proposed rule to incorporate the wireless carriers' comment.

4 CSR 240-37.050 Reclamation

(2) All carriers, except exempt carriers, shall donate thousands-blocks with ten percent (10%) or less contamination to the thousands-block number pool for the rate center within which the numbering resources are assigned unless the following conditions exist.

(A) Carriers shall be allowed to retain at least one (1) thousands-block per rate center, even if the thousands-block is ten percent (10%) or less contaminated.

(B) All carriers, except exempt carriers, shall maintain no more than a six (6)-month inventory of telephone numbers in each rate center or service area in which it provides telecommunications service.



Robin Carnahan
Secretary of State

**Administrative Rules Division
Rulemaking Transmittal Receipt**

Rule ID: 6373
Date Printed: 1/16/2007
Rule Number: 4 CSR 240-37.050
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

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:

Included with Rulemaking:

Cover Letter

1/16/2007