

MEMORANDUM

FILED

JAN 16 2007

Missouri Public
Service Commission

TO: Colleen M. Dale, Secretary

DATE: December 12, 2006

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

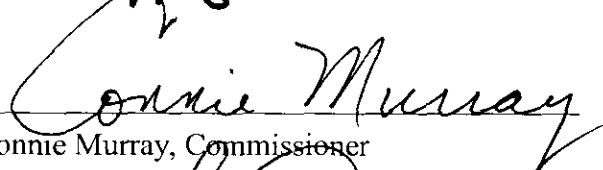
CASE NO: TX-2007-0086

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 240-37.060 – Number Pooling and Number Conservation Efforts – Reporting Requirements



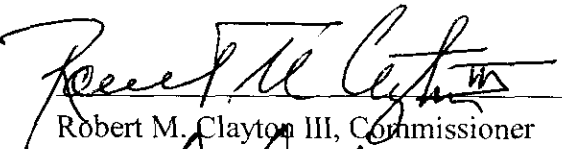
Jeff Davis, Chairman



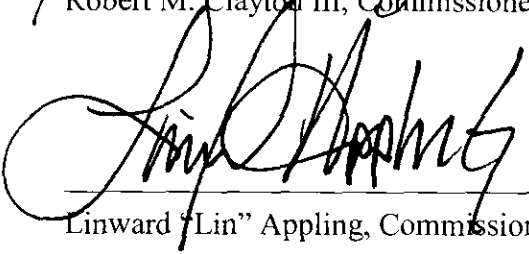
Connie Murray, Commissioner



Steve Gaw, Commissioner



Robert M. Clayton III, Commissioner



Linward "Lin" Appling, Commissioner

Robin Carnahan
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

COPY

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- 37.060
Diskette File Name 4 CSR 240-37.060
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:
- | | |
|--|---|
| <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

ADMINISTRATIVE RULES

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number 37.060

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 240-37.060 Reporting Requirements

PURPOSE: *[This proposed rule establishes procedures for a carrier to report to the commission when telephone numbers are given to an indirect carrier. The proposed]* **This rule [also] includes standards for providing documentation to assist the commission in effectuating its delegated audit authority.**

(1) Consistent with the commission's federal audit authority, [When] a carrier that assigns or transfers a thousands-block to an indirect carrier[the carrier]shall submit[within thirty (30) days,] a notice via the commission's Electronic Filing and Information System (EFIS). The carrier's submission need not be filed if this information is contained in a numbering resources utilization forecast report. The notice shall be submitted on a semiannual basis coinciding with the submission of a numbering resources utilization forecast report. The notice shall include:

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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573-751-3234
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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 240-37.060 Reporting Requirements

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

COPY RECEIVED

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 240-37.060 Reporting Requirements 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 1764). 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: Robert Gryzmala on behalf of AT&T Missouri, John Idoux on behalf of Embark Missouri, Inc., and wireless carriers T-Mobile Central LLC d/b/a T-Mobile, Verizon Wireless, Cingular Wireless and Sprint Nextel Corporation through counsel filed comments and Mr. Gryzmala testified at hearing in opposition to the proposed requirement at section 37.060(1) for carriers to notify the commission when numbering resources are assigned to indirect carriers. At the public hearing, Larry Dority on behalf of CenturyTel joined in Mr. Gryzmala's comments. All of these commenters requested that the commission not adopt this subsection because it exceeds the Federal Communications Commission's reporting requirements and provides no additional useful information. Embark Missouri, Inc. also indicated that the commission also has access to this information already via the North American Numbering Plan Administrator, and the wireless carriers indicated the commission has access to similar information through FCC Form 502. AT&T Missouri also stated that it does not currently identify whether a customer is an indirect carrier when obtaining numbering resources. AT&T Missouri also indicated that the proposed reporting requirement would be unique to Missouri. AT&T Missouri indicated that AT&T Missouri already semiannually provides the information the proposed rule requires in the Numbering Resource Utilization Forecast report that are made available to the commission. Natelle Dietrich on behalf of the commission's staff filed comments and testified at the public hearing that current reporting requires carriers to indicate when numbers have been assigned to a "customer." She indicated that the commission does receive Numbering Resource Utilization Forecast reports, but the information is untimely and often incomplete or incorrect. The commission's proposed rule will allow the commission to develop much broader awareness of demand for numbering resources, and the information received under the proposed rule could provide the commission with support to petition the Federal Communications Commission to expand numbering authority to carriers that do not receive numbering resources directly from Neustar. Ms. Dietrich testified that this proposed rule will allow the commission to effectively monitor the use of numbering resources in Missouri.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that the proposed rule should be modified to clarify that the reporting requirements are an exercise of the commission's auditing authority delegated by the Federal Communications Commission. The commission already receives some of the information required in the proposed rule from some carriers, so carriers will only be required to provide information not currently available to the commission in the Numbering Resource Utilization Forecast reports. The commission encourages carriers who do not provide the information required by the proposed rule to include it in their Numbering Resource Utilization Forecast reports to limit their submissions under this rule. As the commission receives the report containing the information semiannually, the commission will modify the submission requirement from thirty (30) days to semiannually.

COMMENT: Robert Gryzmala on behalf of AT&T Missouri, and wireless carriers T-Mobile Central LLC d/b/a T-Mobile, Verizon Wireless, Cingular Wireless and Sprint Nextel Corporation through counsel filed comments and Mr. Gryzmala testified at hearing in opposition to the proposed requirement at section 37.060(2) to provide, upon request of the commission staff, information to ensure compliance with commission and Federal Communications

Commission numbering rules. The wireless carriers and AT&T Missouri requested that the commission not adopt this subsection because it is beyond the commission's federally delegated authority and are duplicative and burdensome. Natelle Dietrich on behalf of the commission's staff filed comments and testified at the public hearing that the Federal Communications Commission has delegated authority to state commissions to conduct "random" numbering audits, referring to 47 C.F.R. 52.15(k) and the Third Report and Order in CC Docket No. 96-98, para. 101. The proposed rule outlines documentation to be submitted to the commission's staff upon request in the event of an audit.

RESPONSE: The commission declines to modify this rule. The delegation of authority from the Federal Communications Commission is clear as cited by staff and requires companies to submit information not available through another source such as Numbering Resource Utilization Forecast reports.

4 CSR 240-37.060 Reporting Requirements

PURPOSE: *This rule includes standards for providing documentation to assist the commission in effectuating its delegated audit authority.*

(1) Consistent with the commission's federal audit authority, a carrier that assigns or transfers a thousands-block to an indirect carrier shall submit a notice via the commission's Electronic Filing and Information System (EFIS). The carrier's submission need not be filed if this information is contained in a numbering resources utilization forecast report. The notice shall be submitted on a semiannual basis coinciding with the submission of a numbering resources utilization forecast report. The notice shall include:

- (A) The NPA/NXX of the thousands-block(s) assigned or transferred; and
- (B) The name of the indirect carrier receiving the thousands-block(s).



Robin Carnahan
Secretary of State

**Administrative Rules Division
Rulemaking Transmittal Receipt**

Rule ID: 6374
Date Printed: 1/16/2007
Rule Number: 4 CSR 240-37.060
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