



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.

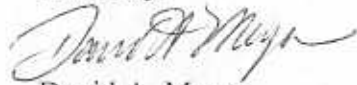
October 24, 2003

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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Re: Proposed Amendments to Rules 4 CSR 240-33.010, 4 CSR 240-33.020,
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, reading "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 240-33.070
Diskette File Name Rule 240-33.070
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).

JCAR Stamp

RULE TRANSMITTAL (PAGE 2)

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

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Chair

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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 240-33.070
Discontinuance of Service to Residential Customers.

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

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Dale Hardy Roberts', with a long, sweeping horizontal stroke extending to the right.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

AFFIDAVIT

RECEIVED

FEB 05 2004

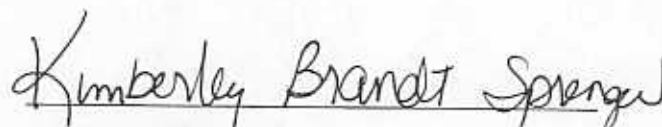
SECRETARY OF STATE
ADMINISTRATIVE RULES

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 240-33.070 Discontinuance of Service to Residential Customers**, 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 5th 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

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JAN 28 2004

SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED AMENDMENT

4 CSR 240-33.070 Discontinuance of Service to Residential Customers. The Public Service Commission is removing section (1)(C) and adding new sections (8-10).

PURPOSE: This amendment modifies procedures for blocking calls due to illegal or unauthorized use. This amendment adds the ability to provide electronic notice to residential customers that service will be discontinued.

(1) Telecommunications service may be discontinued for any of the following reasons:

(A) Nonpayment of a delinquent charge except as limited by sections (2), (4) and (5) of this rule;

(B) Failure to post a required deposit or guarantee;

[(C) Unauthorized use of telecommunications company equipment in a manner which creates an unsafe condition or creates the possibility of damage or destruction to such equipment;]

[(D)] (C) Failure to comply with terms of a settlement agreement;

[(E)] (D) Refusal after reasonable notice to permit inspection, maintenance or replacement of telecommunications company equipment;

[(F)] (E) Material misrepresentation of identity in obtaining telecommunications company service; or

[(G)] (F) As provided by state or federal law.

(3) A telecommunications company may place global toll blocking and eliminate any optional, non-basic calling features and functions for customer nonpayment of delinquent charges for other than basic local telecommunications service. **Non-payment of the Missouri USF surcharge shall be considered non-payment of basic local telecommunications services for the purposes of this rule.**

(8) In lieu of the written notice referenced in Sections 6 and 7 above, and upon customer request, a telecommunications company may provide the information contained in the written notice of discontinuance of basic local telecommunications service in electronic format.

(9) Service may be immediately blocked or discontinued in the case of:

(A) suspected illegal use; or

(B) unauthorized use of telecommunications company equipment in a manner which creates an unsafe condition or creates the possibility of damage or destruction to such equipment.

(10) If service is immediately blocked or discontinued pursuant to Section (9) above, the telecommunications carrier will provide immediate written notification of such blocking or discontinuance to the customer by certified, overnight mail or door hanger.

([8/11) Notwithstanding any other provision of this chapter, a telecommunications company shall postpone a discontinuance for at least twenty-one (21) days if service is necessary to obtain emergency medical assistance for a person who is a member of the household where the telephone service is provided and where such person is under the care of a physician. Any person who alleges such emergency, if requested, shall provide the telecommunications company with reasonable evidence of such necessity.

([9/12) Upon the customer's request, a telecommunications company shall restore service consistent with all other provisions of this chapter when the cause of discontinuance has been eliminated.

([10/13) Payment by personal check may be refused if the customer, within the last twelve (12) months, has tendered payment in this manner and the check has been dishonored, except when the dishonor is due to bank error.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 2000. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Amended: Filed July 5, 1983, effective Feb. 11, 1984. Emergency amendment filed Dec. 20, 1983, effective Jan. 1, 1984, expired Feb. 11, 1984. 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.

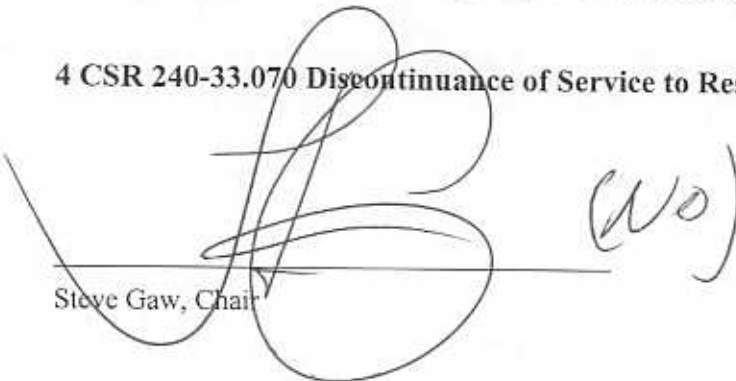
NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments must 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

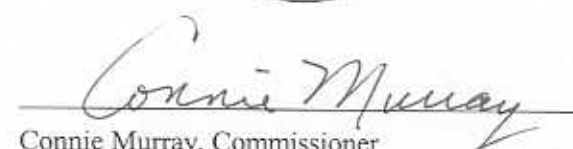
TO: Dale Hardy Roberts, Secretary
DATE: January ²⁷/₃, 2004
RE: Authorization to File Proposed Rulemaking with the Office of Secretary of State
CASE NO: TX-2001-512

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 240-33.070 Discontinuance of Service to Residential Customers.



Steve Gaw, Chair



Connie Murray, Commissioner



Robert Clayton III, Commissioner