

COPY

**MATT BLUNT**  
**Secretary of State**  
**Administrative Rules Division**  
**RULE TRANSMITTAL**

\*Administrative Rules Stamp

**RECEIVED**

JUL 07 2004

SECRETARY OF STATE  
ADMINISTRATIVE RULES

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

A. Rule Number 4 CSR 240-33.110  
Diskette File Name Final Rule 33.110  
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 type="checkbox"/> Authority with history of the rule           |
| <input type="checkbox"/> Affidavit                             | <input type="checkbox"/> Public cost                                  |
| <input type="checkbox"/> Forms, number of pages _____          | <input type="checkbox"/> Private cost                                 |
| <input type="checkbox"/> Fiscal notes                          | <input 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).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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E. ORDER OF RULEMAKING: Rule Number 33.110

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.

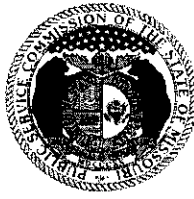
(Start text here. If text continues to a third page, insert a continuous section break and, in **section 3**, delete the footer text. DO NOT delete the header, however.)

**4 CSR 240-33.110, Section three (3), subsection (A) has been modified.**

**The phrase “twenty-four (24) hours” has been replaced with “one business day” at the end of the subsection.**

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**

**STEVE GAW**  
Chair

**CONNIE MURRAY**

**ROBERT M. CLAYTON III**

**JEFF DAVIS**

**LINWARD "LIN" APPLING**

***Missouri Public Service Commission***

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**ROBERT J. QUINN, JR.**  
Executive Director

**WESS A. HENDERSON**  
Director, Utility Operations

**ROBERT SCHALLENBERG**  
Director, Utility Services

**DALE HARDY ROBERTS**  
Secretary/Chief Regulatory Law Judge

**DANA K. JOYCE**  
General Counsel

July 6, 2004

Hon. Matt Blunt  
Secretary of State  
Administrative Rules Division  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Blunt,

Re: Final Order of Rulemaking Rule 4 CSR 240-33.110  
Commission Complaint Procedures.

**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 6<sup>th</sup> day of July 2004.

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](mailto:david.meyer@psc.mo.gov)

BY THE COMMISSION

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

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

**Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 240 – Public Service Commission**  
**Chapter 33 – Service and Billing Practices for Telecommunications Companies**

**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under Sections 386.040, 386.250 RSMo. (2000) and 392.200 RSMo. (Supp. 2003), the Public Service Commission amends a rule as follows:

4 CSR 240-33.110 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on March 15, 2004 (29 MoReg 461). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The written public comment period ended April 14, 2004, and the commission held a public hearing on this proposed amendment April 23, 2004. Natelle Dietrich of the commission's staff filed comments and testified at the public hearing generally in support of the amendment. Michael Dandino of the Office of the Public Counsel also testified generally in support of the amendment at the public hearing. Mimi MacDonald, counsel for Southwestern Bell Telephone, LP d/b/a SBC Missouri, testified generally that the proposed amendment was unnecessary. Six (6) written comments specifically addressed the proposed amendment. At the public hearing, Natelle Dietrich of the commission's staff responded to the specific written comments and Mimi MacDonald, counsel for Southwestern Bell Telephone, LP d/b/a SBC Missouri, provided specific comments in addition to its written comments on the proposed amendment.

**RESPONSE:** The commission has previously found that this rule amendment is necessary to carry out the purposes of Sections 386.040, 386.250, 392.200 and 392.540 RSMo.

**COMMENT:** Carl Lumley, counsel for MCI; Richard Telthorst, president of the Missouri Telecommunications Industry Association; John Idoux, senior manager, Sprint; Mimi MacDonald, counsel for Southwestern Bell Telephone, LP d/b/a SBC Missouri; and Larry Dority, counsel for CenturyTel of Missouri, LLC and Spectra Communications Group, LLC, filed or concurred in comments requesting the commission to alter the requirement in subsection (3)(A) that a company acknowledge receipt of inquiries from the commission staff related to denial or discontinuance of service issues within one business day, rather than within twenty-four (24) hours of receipt. The commenters suggested that the commission staff may inquire on a Friday, and company personnel and commission staff may not be available to address the response on a Saturday. At the public hearing, Natelle Dietrich of the commission's staff testified that because under existing rules, disconnections may only take place when the disconnecting utility is open both on the day of and on the day following disconnection, staff failed to see a concern with a twenty-four (24) hour response time.

**RESPONSE:** The commission will modify the proposed amendment. The companies have indicated in their comments that if they receive an inquiry from commission staff on a Friday

afternoon, they will be required to respond by Saturday afternoon. Inquiries related to denial or discontinuance may not relate to denial or discontinuance events that take place on the same day the inquiry is made, and inquiries may be made on Fridays even if companies do not deny or discontinue service on Fridays. This is a possible concern and not within the intent of the rule. Therefore the language will be amended.

COMMENT: Michael Dandino of the Office of Public Counsel testified that the rules should be expanded to apply to small businesses and suggested limiting the definition of small business customer to businesses with fewer than ten (10) employees.

RESPONSE: This would require a change to the definition of “customer,” and has a significant impact on all rules within this chapter, including rules not raised in this rulemaking proceeding. No fiscal analysis has been performed on this proposal. Such an amendment is beyond the scope of this proceeding and would require consideration of such topics as how to determine “employee” status (e.g., full-time, part-time, independent contractor); how to address fluctuating numbers of employees; corporate versus partnership status vis-à-vis employee status; whether to consider the number of employees at a particular location or company-wide; determining who shall determine small business status (self-reporting, auditing, monitoring). Other definitions may be possible. No changes will be made as a result of this comment.

#### **4 CSR 240-33.110 Commission Complaint Procedures:**

(3) A telecommunications company shall acknowledge or respond by fax transmission or electronic mail to all commission staff inquiries related to informal complaints as follows:

(A) The company shall acknowledge receipt of inquiries related to denial or discontinuance of service issues within one business day;

(B) The company shall acknowledge receipt of inquiries related to all other informal complaints within three (3) business days. Such acknowledgment shall include current account status and an estimated time frame for final response;

(C) If the company and commission staff have not informally agreed to a resolution to the informal complaint, the company shall provide a status report on the informal complaint within fifteen (15) days of receiving such inquiry unless the company and commission staff have agreed to an extension;

(D) The company shall provide, as soon as available, but no later than thirty (30) days after receiving such inquiry, the company’s plan and time frame to resolve the informal complaint;

(E) If a formal complaint regarding the same inquiry is filed the company need not respond further to the informal complaint.

# MEMORANDUM

**TO:** Dale Hardy Roberts, Secretary

**DATE:** July 6, 2004

**RE:** Approval of Final Rule and Authorization to File Order Adopting Final Rule with the Office of the Secretary of State

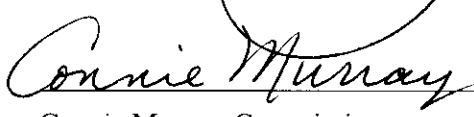
**CASE NO:** TX-2001-512

The undersigned Commissioners hereby adopt the final rule listed below and authorize the General Counsel's Office of the Missouri Public Service Commission to file the final rule packet for the rule with the Office of Secretary of State.

**4 CSR 240-33.110 Commission Complaint Procedures.**



Steve Gaw, Chair



Connie Murray, Commissioner



Robert Clayton III, Commissioner



Jeff Davis, Commissioner



Linward "Lin" Appling, Commissioner