



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 Amendment to Rule 4 CSR 240-33.060, Residential Customer Inquiries
Small Business Impact Statement
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 amendment updating the Commission's telecommunications customer inquiry requirements affect small businesses. I have determined that the proposed rule amendments listed above will have an affect upon small businesses in a direct and significant manner, or it directly relates to the formation, operation or expansion of a small business.

The rule amendment listed above is designed to update the Commission's rule on residential customer inquiries. The following statements contain the Commission's determinations as required by the Executive Order:

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Page 2

1. Small businesses bearing costs will be small incumbent local exchange carriers.
2. A few small incumbent local exchange carriers have indicated they will need to make programming changes to their switch to meet the various provisions of 4 CSR 240-33.060.
3. The increase in the level of costs is \$2000, which will result from a one-time transaction as an indirect cost for equipment modifications.
4. The Commission expects that neither it nor any other state agency will incur costs or receive any benefit from the implementation of the proposed rule. The benefits are designed to flow to the consumer.
5. The agency revised original proposed rule amendment language to address industry concerns. The agency had received original estimates of impact as much as \$50,000.
6. The Commission's staff conducted an industry workshop to discuss proposed language and conveyed suggested changes to the Commission, which then considered them in the amendment development process.
7. The proposed amendment duplicates provisions of the FCC's "Truth-in-Billing" regulations at 47 C.F.R. Section 64.

Please let me know if you have any questions based upon the foregoing.

Sincerely,



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)



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4 CSR 240-33.040, 4 CSR 240-33.060, 4 CSR 240-33.070, 4 CSR 240-33.080,
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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 240-33.060
Diskette File Name Rule 240-33.060
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 checked="" 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

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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ROBERT M. CLAYTON III

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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 240-33.060
Residential Customer Inquiries.

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 'D. Hardy Roberts', written over the printed name below.

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 240-33.060 Residential Customer Inquiries**, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

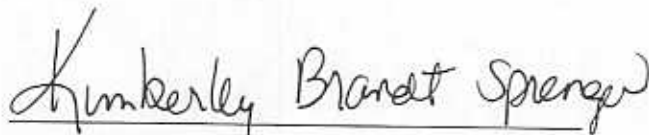


Anne Walker
DEPUTY DIRECTOR
Department of Economic Development

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

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: Missouri Department of Economic Development
 Division: Missouri Public Service Commission
 Chapter: Service and Billing Practices for Telecommunications Companies
 Type of Rulemaking: Revision
 Rule Number and Name: 4 CSR 240-33.060 Residential Customer Inquiries

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
4	Class A Local Telephone Companies	\$0
37	Class B Local Telephone Companies	\$2000
80	Class C Local Telephone Companies	\$0
500+	Class Interexchange Companies	\$0
	All entities	\$2000

* Class A Telephone Companies are incumbent local telephone companies with more than \$100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with \$100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers.

III. WORKSHEET

1. The proposed rule applies to all classes of telecommunications companies certificated by the Missouri Public Service Commission. These companies have reviewed the proposed rule and have provided fiscal impact projections. The above information is based on those projections and is a one time cost to make modifications to existing network equipment.

IV. ASSUMPTIONS

1. Fiscal year 2003 dollars were used to estimate costs. No adjustment for inflation is applied.
2. Estimates assume no sudden change in technology that would influence costs.
3. Affected entities are assumed to be in compliance with all other Missouri Public Service Commission rules and regulations.

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

COPY
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JAN 28 2004

SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED AMENDMENT

4 CSR 240-33.060 Residential Customer Inquiries. The Public Service Commission is amending section (1) and adding new sections (3-7).

PURPOSE: This amendment establishes procedures to be followed when residential customers make inquiries of telecommunications companies so that such inquiries are handled in a reasonable manner and adds language to allow residential customers to block certain types of calls. Additional requirements pertaining to this subject matter are also found at 4 CSR 240-3.555.

(1) *[A telecommunications company shall adopt procedures which will ensure the prompt and thorough receipt, investigation and, where possible, resolution of inquiries. The telecommunications company, upon request, shall submit the procedures to the commission and the telecommunications company shall notify the commission of any substantive changes in these procedures prior to their implementation]* All bills shall clearly identify the company name associated with the toll free number the customers will be calling for billing inquiries and/or to cancel their previously granted consent to certain services that will be charged on the telephone bill.

(3) Upon request of a customer by electronic communications or by writing, all telecommunications carriers shall restrict all 900 numbers from that customer's number at no charge to that customer.

(4) Upon request of a customer by electronic communications or by writing, the telecommunications carrier providing service to state correctional facilities shall restrict all calls from state correctional facilities to that customer's number at no charge to that customer.

(5) Upon request of a customer by electronic communications or by writing, all interexchange telecommunications carriers shall restrict all toll calls without a valid passcode from that customer's number.

(6) Upon request of a customer by electronic communications or by writing, and where technically feasible, local telecommunications carriers shall restrict all calls using a 10-10-XXX dialing pattern from that customer's number.

(7) Customers shall be notified of their rights in Sections 3, 4, 5 and 6 above at the time of application for service. Additional notice shall be provided annually thereafter by bill insert, statement on customer bills or annually in the telephone

directory. Each time a customer notifies a telecommunications carrier or its billing agent that the customer's bill contains charges for products or services that the customer did not order or that were not received, the customer will be informed of their rights in Sections 3, 4, 5 and 6 at the time the customer notifies the telecommunications carrier or its billing agent.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 2000. Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. 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 cost private entities two thousand dollars (\$2,000).

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 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

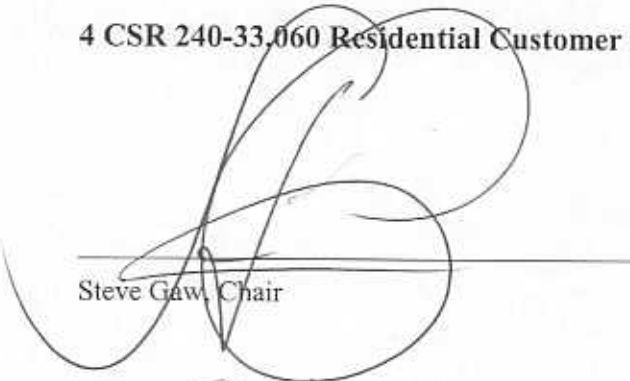
DATE: January ²⁷~~13~~, 2004

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

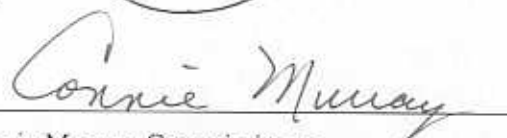
CASE NO: TX-2001-512

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 240-33.060 Residential Customer Inquiries.



Steve Gaw, Chair



Connie Murray, Commissioner



Robert Clayton III, Commissioner