

MATT BLUNT
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

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JUL 15 2004

SECRETARY OF STATE
ADMINISTRATIVE RULES

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

A. Rule Number 4 CSR 240-32.200
Diskette File Name Final Rule 32.200
Name of Person to call with questions about this rule:
Content William Haas Phone 573-751-7510 FAX 573-751-9285
Data Entry Tammy Vieth Phone 573-751-8377 FAX 573-751-9285
Email Address william.haas@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 32.200

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 240-32.200, sections (2), (3), (7) and (13) have been modified.

In section (2), the commission added, at the beginning, the sentence, **"An entity requesting 211 service from a telecommunications company shall provide the telecommunications company with a copy of the order granting it authority as a Missouri I&R Provider or a copy of its application to become a Missouri I&R Provider supplemented by a copy of the order granting it authority prior to beginning service."**

In section (2), the commission deleted the word **"use"** and replaced it with the words **"be assigned."**

In subsection (2) (A), the commission deleted the word **"using"** and replaced it with the word **"assigned."**

In subsection (2) (C), the commission deleted the clause **"the tariff shall include rates established pursuant to the provisions of section 392.200 (3), RSMo; and"**

In subsection (2) (C), the commission added the words **"Within sixty (60) days"** at the beginning.

The commission deleted subsection (2) (D).

In paragraph (3) (A) (2), the commission added the words **"or is a county, municipality, political subdivision, or agency of the state of Missouri"** following the words **"tax code"**.

In section (7), the commission deleted the word **"use"** and replaced it with the words **"be assigned"**.

In section (13), the commission added the words **"a separate charge specifically"** following the words **"shall charge"**.

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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WESS A. HENDERSON
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ROBERT SCHALLENBERG
Director, Utility Services

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

July 15, 2004

Honorable Matt Blunt
Secretary of State
600 West Main Street
Jefferson City, Missouri 65101

Dear Secretary Blunt:

Re: Proposed Rule 4 CSR 240-32.200
General Provisions for the Assignment, Provision and Termination of 211 Service

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed rule lawfully submitted by the Missouri Public Service Commission for filing on this 15th day of July 2004.

Statutory Authority: Sections 386.040, 386.250 and 392.200 RSMo 2000.

If there are any questions, please contact: William K. Haas, Deputy General Counsel
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-7510

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 32—Telecommunications Service
Rules Governing Filings Made Pursuant to the
Telecommunications Act of 1996**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.040 and 386.250 RSMo 2000 and 392.200 RSMo Supp. 2003, the commission adopts a rule as follows:

4 CSR 240-32.200 General Provisions for the Assignment, Provision and Termination of 211 Service.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on April 15, 2004 (29 MoReg 646). 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: A public hearing on this proposed rule was held May 26, 2004, and the public comment period ended May 17, 2004. At the public hearing, Natelle Dietrich, Regulatory Economist III with the Public Service Commission, provided oral responses to written and oral comments. In addition, orally at the public hearing, Mark Comley, attorney at law, provided comments for Heart of America United Way, Inc.; Sara Parker, State Librarian, provided comments for the State Library; and Paul Lane, attorney at law, provided comments for Southwestern Bell Telephone, LP, d/b/a SBC Missouri.

The staff of the Public Service Commission, Heart of America United Way, Inc., Southwestern Bell Telephone, LP, d/b/a SBC Missouri, and AT&T Communications of the Southwest, Inc., (AT&T) filed written comments.

COMMENT: The staff of the Public Service Commission supports the adoption of the proposed rule in its entirety.

RESPONSE: No changes have been made to the rule as a result of this comment.

COMMENT: Heart of America United Way, Inc., notes that although subsection (2)(C) directs a telecommunications company to submit a 211 tariff to the commission when it receives a request from an entity to use 211 as the Information and Referral (I&R) Provider, the subsection does not set a time limit within which a telecommunications company must submit a tariff. Heart of America United Way, Inc., suggests a thirty (30) day time limit. At the public hearing, the staff noted that some companies would have to complete tariffs on a national basis and that other companies would have no experience in developing 211 tariffs. The staff suggested that sixty (60) days is an appropriate time limit. At the public hearing, SBC Missouri responded that a sixty (60) day time limit to prepare a 211 tariff is acceptable.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees, that to prevent an unnecessary delay in implementing 211 service, that a telecommunications company should have a time limit to submit a 211 tariff after it receives a request from an entity to use 211 as the I&R Provider. The commission agrees that sixty (60) days is a reasonable period for a telecommunications company to prepare and submit a proposed 211 tariff. Section (2) of the rule will be changed.

COMMENT: AT&T and SBC Missouri suggest that subsection (2)(D) inappropriately places the burden on the telecommunications company to determine whether the entity requesting 211 service is an authorized I&R Provider in Missouri. At the public hearing, the staff stated it would support a change to require the entity requesting 211 service to provide the telecommunications company a copy of its application to become a Missouri I&R Provider or a copy of the order granting it authority as a Missouri I&R Provider.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that the entity requesting 211 service from a telecommunications company should provide the telecommunications company with documentation showing that the entity has obtained or is seeking authorization as Missouri I&R Provider. Section (2) of the rule will be changed.

COMMENT: SBC Missouri objects to the use of the word “use” in section (2) because the I&R Provider would request that it “be assigned” the 211 code. SBC Missouri states that it could ensure that entities that were previously “assigned” 211 would relinquish the code, but that it does not know whether any entity was actually using the 211 code. At the public hearing, the staff pointed out that the word “use” is language from the Federal Communication Commission’s 211 order, but that the staff did not object to replacing “use” with “assign.”

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that the potential that an entity that has been assigned the 211 code is not using the 211 code creates an ambiguity in the rule. Section (2) of the rule will be changed.

COMMENT: SBC Missouri seeks clarification with regard to the reference in subsection (2)(C) to section 392.220(3) RSMo. This statute authorizes a telecommunications company to give free or reduced service to, among others, corporations exclusively engaged in charitable and eleemosynary work and to public libraries. At the public hearing, the staff noted that the statute applies regardless of whether or not it is referenced in the rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that the statute applies without referencing it in the rule. Section (2) of the rule will be changed.

COMMENT: SBC Missouri suggests that subsection (4)(B) should be amended to provide for the commission to notify incumbent local exchange companies and facilities based local exchange companies and other organizations that an applicant has become a Missouri I&R Provider. At the public hearing, SBC Missouri said the issue of whether this notice should be provided would tie to how the commission deals with the question of when the tariff should be filed.

RESPONSE: The commission is changing section (2) to require the entity requesting 211 service to provide the telecommunications company a copy of its application to become a Missouri I&R Provider or a copy of the order granting it such authority. The commission is also changing section (2) to set a sixty (60) day time limit for a telecommunications company to

prepare and submit a 211 tariff after receiving a request for 211 service. No changes have been made to the rule as a result of this comment.

COMMENT: SBC Missouri objects to the use of the word “use” in section (7) because the I&R Provider would request that it “be assigned” the 211 code. SBC Missouri states that it could ensure that entities that were previously “assigned” 211 would relinquish the code, but that it does not know whether any entity was actually using the 211 code. At the public hearing, the staff pointed out that the word “use” is language from the Federal Communication Commission’s 211 order, but that the staff did not object to replacing “use” with “assign.”

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that the potential that an entity that has been assigned the 211 code is not using the 211 code creates an ambiguity in the rule. Section (7) of the rule will be changed.

COMMENT: SBC Missouri seeks clarification of section (13) which provides: “Neither a telephone company nor a Missouri I&R Provider shall charge end users for 211 service.” SBC Missouri is concerned that a telephone company would be unable to bill an end user who calls from a payphone or who purchases local measured service. At the public hearing, the staff agreed that the language could lead to confusion.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that someone might read the rule as prohibiting a telephone company from charging for a payphone call to 211 or a local measured service call to 211. The intent is that the end user is not to be charged an additional 211 service charge. Section (13) of the rule will be changed.

COMMENT: At the public hearing, the State Librarian expressed concern that the rule limits Missouri I&R Providers to not-for-profit organizations as defined in the federal tax code. The State Librarian explained that libraries have a long history of answering public inquiries and a long history of maintaining community information files. The State Librarian added that units of local government, and government generally, often have funding mechanisms to give stability and resources for continuity of programs. At the public hearing, the staff explained that the purpose in limiting Missouri I&R Providers to not-for-profit organizations was to address the concern that the I&R Provider might tie up the 211 number for purposes not related to providing 211 service. The staff was amenable to allowing a government entity to apply to be a Missouri I&R Provider.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that government entities may possess the funding and expertise to operate as a Missouri I&R Provider. Section (3) of the rule will be changed.

4 CSR 240-32.200 General Provisions for the Assignment, Provision and Termination of 211 Service

(2) An entity requesting 211 service from a telecommunications company shall provide the telecommunications company with a copy of the order granting it authority as a Missouri I&R Provider or a copy of its application to become a Missouri I&R Provider supplemented by a copy of the order granting it authority as a Missouri I&R Provider prior to beginning service. When a telecommunications company receives a request from an entity to be assigned 211 as the Information and Referral Provider for a geographic area, the telecommunications company shall:

(A) Ensure that any entities that were assigned 211 at the local level prior to July 31, 2000, relinquish assignment of the code for noncompliant services;

(B) Take steps necessary (such as reprogramming switch software) to complete 211 calls from its subscribers to the Information and Referral Provider;

(C) Within sixty (60) days, submit a tariff to the commission, if no tariff exists, incorporating rates, terms and conditions for 211 service.

(3) Entities interested in becoming a Missouri I&R Provider shall file an application with the commission.

(A) All applications shall include a statement that the application meet the following criteria:

1. Applications must comply with 4 CSR 240-2.060(1);

2. A statement that the applicant is a not-for-profit organization as defined by section 501 (c) (3) of the federal tax code or is a county, municipality, political subdivision, or agency of the state of Missouri.

3. A statement that the 211 telephone line will be monitored twenty-four (24) hours a day, seven (7) days a week, by:

A. The applicant's personnel;

B. The personnel of another Missouri I&R Provider under subcontract with the applicant; or

C. The personnel of a qualified human services entity under subcontract with the applicant;

4. The 211 telephone line shall not be answered through an answering service or answering machine;

5. Will adhere to the Alliance of Information and Referral Systems, Incorporated *Standards for Professional Information and Referral*, 4th edition, revised October 2002, which is incorporated herein by reference, and is AIRS accredited, or has initiated, or will initiate, the written application process and shall become accredited within three (3) years;

6. Offers comprehensive services pursuant to the AIRS standards;

7. Shares resource database information with other Missouri I&R Providers;

8. Works collaboratively and has written agreements with specialized information and referral systems which shall include crisis centers, child care resource and referral programs, elderly help-lines, homeless coalitions, designated emergency management systems, 911 and 311 systems, as applicable;

9. Uses a method common to all Missouri I&R Providers to measure and evaluate outcomes for the operation of a 211 call center;

10. Has an established automated information tracking system that maintains call center data that shall include the following statistics; call volume, number of abandoned calls, average speed of answering, and average call length;

11. Tracks information on inquirer needs, unmet needs, and barriers to services and shares this data with other Missouri I&R Providers, and local and state organizations;

12. Removes or excludes human services entities from the Missouri I&R Providers' database for failure to deliver service, fraud, misrepresentation and discrimination;

13. Maintains a computerized information and referral database that has up-to-date information and resource data and the capacity to collect caller information;

14. Ensures quality of service and caller and customer satisfaction through follow-up and written outcome evaluations;

15. Publicizes 211 services through a written public awareness, marketing, advertising, and education plan to inform the public regarding available services;

16. Provides teletype (TTY) services for speech and hearing impaired individuals and multi-lingual accessibility either on-site, or through access to translators; and

17. Has formal agreements with clearinghouse agencies that provide volunteer or donation management services.

(B) In addition to the requirements of subsection (3)(A), the application must include:

1. A statement that the applicant possesses sufficient technical, financial and managerial resources and abilities to become the I&R Provider for the requested telephone exchanges;

2. A statement as to the applicant's ability and willingness to abide by commission rules and policies; and

3. A statement that sets forth the exchange(s) to be served.

(7) A Missouri I&R Provider will be entitled to be assigned the three (3) digit 211 abbreviated dialing code to serve the community for a period of three (3) years.

(13) Neither a telecommunications company nor a Missouri I&R provider shall charge end users a separate charge specifically for 211 service.

MEMORANDUM

TO: Dale Hardy Roberts, Secretary

DATE: July 15, 2004

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

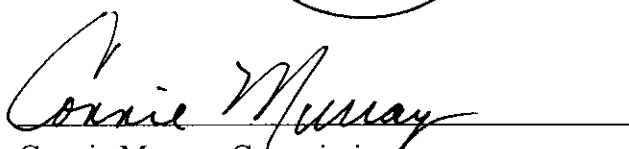
CASE NO: TX-2004-0154

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:

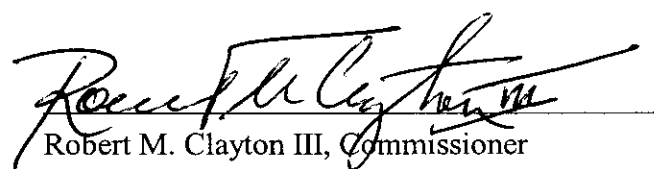
4 CSR 240-32.200 - General Provisions for the Assignment, Provision and Termination of 211 Service



Steve Gaw, Chair



Connie Murray, Commissioner



Robert M. Clayton III, Commissioner



Jeff Davis, Commissioner



Linward "Lin" Appling, Commissioner