

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 3—Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 392.455, RSMo 2000 and sections 392.450 and 392.451, RSMo Supp. 2010, the commission amends a rule as follows:

4 CSR 240-3.510 Filing Requirements for Telecommunications Company Applications for Certificates of Service Authority to Provide Telecommunications Services, Whether Interexchange, Local Exchange, or Basic Local Exchange is **amended**.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2010 (35 MoReg 1736-1737). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended January 3, 2011, and the commission held a public hearing on the proposed amendment on January 4, 2011. The commission received timely written comments from the staff of the Missouri Public Service Commission, William D. Steinmeier (an attorney who regularly practices before the commission), and AT&T Missouri. In addition, the commission's staff offered comments at the hearing. Each comment supported the proposed amendment.

COMMENT #1: The commission's staff offered a written comment explaining that the existing rule requires applicants for authority to provide basic local telephone service to submit detailed financial information to establish their financial ability to offer such services. Staff indicates its experience since promulgating the existing rule has shown that the detailed financial information reporting requirements are not necessary. Staff believes the amended rule will continue to protect the public interest in local phone service provided by economically-stable providers.

RESPONSE: The commission thanks its staff for its comment. The commission has made no changes to the rule because of this comment.

COMMENT #2: William D. Steinmeier offered a written comment indicating he is an attorney who frequently files applications for certificates of service authority on behalf of small competitive telephone companies. Mr. Steinmeier explains that Missouri's current financial reporting criteria are among the most stringent in the nation. As such, those criteria have created a barrier that has discouraged companies from attempting to enter Missouri's competitive market for local telephone service. Mr. Steinmeier supports the proposed amendment as an appropriate streamlining of the certificate application process, while still protecting the public interest. Mr. Steinmeier encourages the commission to adopt the proposed amendment.

RESPONSE: The commission thanks Mr. Steinmeier for his comment. The commission has made no changes to the rule because of this comment.

COMMENT #3: AT&T Missouri filed a written comment indicating its support for the proposed amendment. It explains that new entrants into the competitive local telephone service market frequently seek to provide service by reselling the services of another carrier, such as AT&T Missouri. If the new entrant becomes financially insolvent, the established carrier, whose service is resold, may not be paid for providing that service. As a result, AT&T Missouri has a financial interest in ensuring that new carriers entering the market are financially stable. AT&T Missouri believes that the proposed amendment appropriately streamlines the application process while still protecting the financial interests of established telephone service providers. **RESPONSE:** The commission thanks AT&T Missouri for its comment. The commission has made no changes to the rule because of this comment.

Title 5—DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION Division 70—Special Education Chapter 742—Special Education

ORDER OF RULEMAKING

By the authority vested in the State Board of Education under sections 160.900-160.925 and 161.092, RSMo Supp. 2010, the board hereby amends a rule as follows:

5 CSR 70-742.141 is amended.

A notice of proposed rulemaking was not published because state program plans required under federal education acts or regulations are specifically exempt under section 536.021, RSMo. Public hearings were held on October 21 and 28, 2010, in St. Louis and Jefferson City.

This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*. This rule describes Missouri's services for infants and toddlers with disabilities, in accordance with Part C of the Individuals with Disabilities Education