

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Proposed Rule for 211)
Service.)

Case No. TX-2004-

MOTION FOR FINDING OF NECESSITY FOR RULEMAKING

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through its Office of General Counsel, pursuant to section 536.016, and for its Motion for Finding of Necessity for Rulemaking states as follows:

In this filing Staff is requesting a motion for necessity for rulemaking for 211 service for the reasons contained in this pleading and in the attached affidavit of Natelle Dietrich, Staff Regulatory Economist III for the Staff of the Missouri Public Service Commission.

2. Section 536.016 RSMo 2000 provides that a state agency shall propose rules based upon “a finding by the agency that the rule is necessary to carry out the purposes of the statute that granted such rulemaking authority.”

3. The Commission’s state authority to promulgate rules for 211 service is pursuant to sections 386.250, 392.200 and 392.245 RSMo 2000. In particular section 386.250(6) authorizes the Commission to adopt rules that prescribe the conditions of rendering public utility service, disconnecting or refusing to reconnect public utility service and billing for public utility service.

4. The state commission’s federal authority comes from 47 U.S.C. 251(e)(1), which authorizes the FCC to delegate all or part of its numbering administration authority to the states.

The FCC in its Third Report and Order and Order on Reconsideration assigned 211 as a national abbreviated dialing code to be used for access to community information and referral services.

5. The FCC in assigning 211 made two requirements of the telecommunications carrier that receives a request from an entity (e.g., the United Way) to use 211 for access to community information and referral services, “the telecommunications provider must: (1) ensure that any entities that were using 211 at the local level prior to the effective date of this Order relinquish use of the code for non-compliant services, and (2) take any steps necessary (such as reprogramming switch software) to complete 211 calls from its subscribers to the requesting entity in its service area.”²

6. Currently, Missouri does not have 211 service anywhere in the state and no Commission rules exist for offering 211 service. SBC Missouri has received an application to use 211 for access to community information and referral services and must now comply with the above FCC order. There are many unanswered questions presented by such a request that have not yet been addressed by the Missouri Public Service Commission, for example: (1) Who will pay for the 211 service? (2) Will there be competing bids for the service? (3) What standards should a potential provider meet?

7. Section 392.200.1 RSMo 2000 provides that every telecommunications company “shall furnish and provide with respect to its business such instrumentalities and facilities as shall be adequate and in all respects just and reasonable.” Additionally, “All charges made and demanded by any telecommunications company for any service rendered or to be rendered in connection therewith shall be just and reasonable and not more than allowed by law or by order or decision of the commission.”

¹ CC Docket No. 92-105, *Third Report and Order and Order on Reconsideration*, paragraph 52.

² *Id.* at paragraph 21.

8. Section 386.610 RSMo 2000 provides that the provisions of the Public Service Commission Law shall be liberally construed with a view to the public welfare, efficient facilities and substantial justice between patrons and public utilities. Section 392.185 RSMo 2000 provides:

The provisions of this chapter shall be construed to: (1) Promote universally available and widely affordable telecommunications services; (2) Maintain and advance the efficiency and availability of telecommunications services; (3) Promote diversity in the supply of telecommunications services and products throughout the state of Missouri; (4) Ensure that customers pay only reasonable charges for telecommunications service; (5) Permit flexible regulation of competitive telecommunications companies and competitive telecommunications services; (6) Allow full and fair competition to function as a substitute for regulation when consistent with the protection of ratepayers and otherwise consistent with the public interest; (7) Promote parity of urban and rural telecommunications services; (8) Promote economic, educational, health care and cultural enhancements; and (9) Protect consumer privacy.

9. Concurrently with this motion, Staff is filing a Motion for Finding of Necessity for Emergency Rulemaking to provide an emergency rulemaking under Section 536.025. This is necessary as an emergency rule will allow expedient effectiveness of the rule and this rulemaking will allow the rule to continue in effect going beyond the emergency period.

WHEREFORE, the Staff respectfully requests that the Commission find that the proposed rulemaking is necessary by providing standards and procedures for the provision of 211 for access to community information and referral services.

Respectfully submitted,

DANA K. JOYCE
General Counsel



William K. Haas
Deputy General Counsel
Missouri Bar No. 28701

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-7510 (Telephone)
(573) 751-9285 (Fax)
williamhaas@psc.state.mo.us

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronic mailed to all counsel of record this 23rd day of September 2003.



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AFFIDAVIT

Staff proposes to initiate a regular rulemaking, 4 CSR 240-32.180 to provide initial Commission processes and procedures for the implementation and/or monitoring of 211 service as provided by local exchange carriers and/or community information and referral organizations.

The Federal Communications Commission (FCC), in its Third Report and Order and Order on Reconsideration, assigned 211 as a national abbreviated dialing code to be used for access to community information and referral services.¹ In its order, the FCC discussed the need for a 211 service to provide contact information for: (1) housing assistance, (2) maintaining utilities, (3) providing food, (4) finding counseling and offering hospice services, (5) substance abuse programs and (6) other programs to combat abuse.

The FCC, in assigning 211, required telecommunications carriers that receive a request from an information and referral entity to take any steps necessary (such as reprogramming switch software) to complete 211 calls from its subscribers to the requesting entity in its service area. Staff has had conversations with Southwestern Bell Telephone, L.P., d/b/a SBC Missouri and the Heart of Missouri United Way, both of which are preparing to make 211 information and referral service available in certain Missouri counties.


In light of the recent interest in providing 211 service to Missouri consumers, Staff proposes to initiate both an emergency rulemaking and this permanent rulemaking outlining

CC Docket No. 92-105, *Third Report and Order and Order on Reconsideration*, paragraph 52.


processes and procedures for such things as establishing information and referral standards; determining technical and managerial ability to provide 211 services; determining availability of resources to provide 211 service 24 hours a day, seven days a week; initiating a process so consumers have equitable access to agencies providing assistance and outlining cost recovery guidelines.

An emergency rulemaking will bring the benefits of the abbreviated-dialing information and referral service to Missouri consumers in an expedited manner. This permanent rulemaking will establish procedures to establish a fair process for the on-going availability and expansion of 211 service to Missouri consumers.

I certify that I have read the foregoing statement and that the facts therein are complete, true and accurate to the best of my knowledge and belief.


Natelle Dietrich
Staff Regulatory Economist III

Subscribed and sworn to before me this day of September, 2003.


DAWN L. HANE Notary Public
Notary Public -- State of Missouri
County of Cole
My Commission Expires Jan 9, 2005

My commission expires _____