



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>
September 12, 2003

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

Mr. Joseph L. Driskill, Director
Department of Economic Development
301 West High Street
Jefferson City, MO 65102

**Re: No Public Cost Affidavit for
Proposed Rules 4 CSR 240-36.010 to 36.080
Public Service Commission Arbitration Rules for *Telecommunications Act of 1996*
MoPSC Case No. TX-2003-0487**

Dear Mr. Driskill:

To address procedures used for review of interconnection agreements under the *Telecommunications Act of 1996*, the Public Service Commission proposes to publish Proposed Rules 4 CSR 240-36.010, **Definitions**; 4 CSR 240-36.020, **Filing Procedures**; 4 CSR 240-36.030, **Mediation**; 4 CSR 240-36.040, **Arbitration**; 4 CSR 240-36.050, **Commission Approval of Agreements Reached by Arbitration**; 4 CSR 240-36.060, **Commission Approval of Agreements Reached by Voluntary Mediation or Negotiation**; 4 CSR 240-36.070, **Commission Notice of Adoption of Previously Approved Agreement**; 4 CSR 240-36.080, **Commission Approval of Amendments to Agreements Approved or Adopted Under These Rules**.

Please find enclosed:

- (1) an affidavit regarding public entity costs for these proposed rules;
- (2) a "takings" analysis; and
- (3) a copy of each of the proposed rules.

The Commission has performed the small business analysis required by Executive Order 03-15 and plans to include the language following in the transmittal letter to the Secretary of State for the proposed rules:

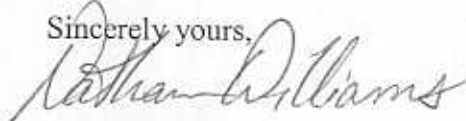
Executive Order 03-15 requires state agencies to "determine whether the proposed rules affect small businesses and, if so, the availability and practicability of less restrictive alternatives that could be implemented to achieve the same results of the proposed rule." A small business is defined to be "a for-profit enterprise consisting of fewer than fifty (50) full or part-time employees." A proposed rule "affects" a small business if it "imposes any requirement" that "will cause direct and significant economic

burden upon a small business, or is directly related to the formation, operation, or expansion of a small business.”

Proposed rules 4 CSR 240-36.010 through 4 CSR 240-36.080 state procedures for Public Service Commission review of interconnection agreements made under the *Telecommunications Act of 1996*, in particular, 47 U.S.C. § 252. Because these rules do not impose any requirement that “will cause direct and significant economic burden upon a small business, or [that] is directly related to the formation, operation, or expansion of a small business,” the Commission certifies that it has determined that the proposed rules will not have an economic impact on small businesses.

Please let me know if you have any questions concerning these proposed rules.

Sincerely yours,

A handwritten signature in cursive script that reads "Nathan Williams".

Nathan Williams

Senior Counsel

(573) 751-8702

(573) 751-9285 (Fax)

nathanwilliams@psc.state.mo.us (E-Mail)

Enclosures.

MEMORANDUM

TO: Dale Hardy Roberts, Secretary

THROUGH: Dan Joyce


FROM: Nathan Williams

DATE: December 30, 2003


SUBJECT: Authorization to File Proposed Rulemakings with the Office of the Secretary of State.

Case No. TX-2003-0487


The undersigned Commissioners hereby authorize the General Counsel's Office of the Missouri Public Service Commission to file the following Proposed Rulemakings with the Office of the Secretary of State, to wit: 4 CSR 240-36.010, 4 CSR 240-36.020, 4 CSR 240-36.030, 4 CSR 240-36.040, 4 CSR 240-36.050, 4 CSR 240-36.060, 4 CSR 240-36.070 and 4 CSR 240-36.080.



Steve Gaw, Chair



Connie Murray, Commissioner



Robert M. Clayton, Commissioner

RECEIVED
DEC 30 2003
SECRETARY OF STATE
ADMINISTRATIVE BUREAU

A. Rule Number 4 CSR 240-36.010

Diskette File Name Proposed Rule 4 CSR 240-36.010

Name of Person to call with questions about this rule:

Content Nathan Williams Phone 573-751-8702 FAX 573-751-9285

Data Entry Nathan Williams Phone 573-751-8702 FAX 573-751-9285

Email Address nathan.williams@psc.mo.gov

Interagency Mailing Address Governor Office Building, 200 Madison St., 8th Floor, Jefferson City, MO

Statutory Authority 386.410 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)

<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 type="checkbox"/>	Affidavit	<input checked="" type="checkbox"/>	Public cost
<input type="checkbox"/>	Forms, number of pages _____	<input checked="" type="checkbox"/>	Private cost
<input type="checkbox"/>	Fiscal notes	<input checked="" type="checkbox"/>	Hearing and comment period

☐ 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

JCAR Stamp

RULE TRANSMITTAL (PAGE 2)

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

STEVE GAW
Chair

CONNIE MURRAY

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Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

December 30, 2003

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

Dear Secretary Blunt,

RE: 4 CSR 240-36.010 Definitions

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 on this thirtieth day of December 2003.

Executive Order 03-15 requires state agencies to "determine whether the proposed rules affect small businesses and, if so, the availability and practicability of less restrictive alternatives that could be implemented to achieve the same results of the proposed rule." A small business is defined to be "a for-profit enterprise consisting of fewer than fifty (50) full or part-time employees." A proposed rule "affects" a small business if it "imposes any requirement" that "will cause direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business."

Proposed rule 4 CSR 240-36.010 is part of a group of rules—4 CSR 240-36.010 through 4 CSR 240-36.080—that state procedures for Public Service Commission review of interconnection agreements made under the *Telecommunications Act of 1996*, in particular, 47 U.S.C. § 252. Because proposed rule 4 CSR 240-36.010 will not impose any requirement that "will cause direct and significant economic burden upon a small business, or [that] is directly related to the formation, operation, or expansion of a small business," the Commission certifies that it has determined that the proposed rule 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 final rule does not constitute a taking of real property under relevant state and federal law.

Statutory Authority: Sections 386.410 RSMo 2000.

If there are any questions regarding the content of the rule, please contact:

December 30, 2003

Page 2

Nathan Williams
200 Madison Street, Suite 800
P. O. Box 360
Jefferson City, MO 65101
(573) 751-8702
nathan.williams@psc.mo.gov

Sincerely yours,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Public Service Commission
State of Missouri

DHR:NW:

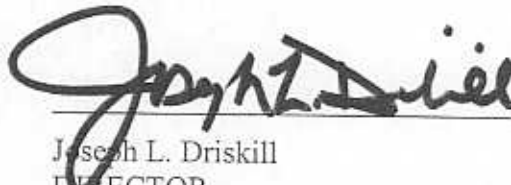
Enclosures: Transmittal Form, Cover Letter, Public Entity no cost affidavit, Proposed Rule & 3.5" Diskette

cc: Missouri Small Business Regulatory Fairness Board

AFFIDAVIT

STATE OF MISSOURI)
)
COUNTY OF COLE)

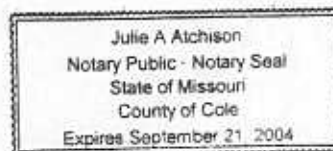
I, Joseph L. Driskill, Director of the Department of Economic Development, first being duly sworn on my oath state that it is my opinion that the cost of proposed rule 4 CSR 240-36.010—**Definitions** is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Joseph L. Driskill
DIRECTOR
Department of Economic Development

Subscribed and sworn to before me this 5th day of December, 2003.
I am commissioned as a notary public within the County of
Cole, State of Missouri, and my commission expires on
September 21, 2004.


NOTARY PUBLIC



Title 4--DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240--Public Service Commission
Chapter 36 - Alternative Dispute Resolution Procedural Rules Governing Filings
Made Pursuant to the Telecommunications Act of 1996

PROPOSED RULE

4 CSR 240-36.010 Definitions

PURPOSE: This rule defines terms used in the rules comprising Chapter 36. The terms defined in the Telecommunications Act of 1996 are generally applicable to these rules.

- (1) Commission means the Missouri Public Service Commission.
- (2) FCC means the Federal Communications Commission.
- (3) Act means the Telecommunications Act of 1996; unless noted otherwise, all references to sections and subsections are to the Communications Act of 1934 as amended by the 1996 Act.
- (4) Mediation means a process in which the commission assists negotiating parties to reach their own solution.
- (5) Arbitration means the submission of a dispute to a commission-appointed neutral third party for resolution.
- (6) Petition means an application to the commission for relief under the Act.
- (7) Request for negotiation means the first date on which an incumbent local exchange carrier receives a written request to negotiate pursuant to the Act.
- (8) Arbitrated agreement means the entire agreement filed by the parties in conformity with the arbitrator's report.
- (9) Unresolved issues means those issues submitted to be decided by the arbitrator in compliance with subsection 252(b)(4)(C) of the Act.

AUTHORITY: section 386.410, RSMo 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 not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before March 5, 2004, and should include a reference to commission Case No.TX-2003-0487. 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 regarding this proposed rule is scheduled for March 12, 2004, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to 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 (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.