

MATT BLUNT
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

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JUN 10 2004

SECRETARY OF STATE
ADMINISTRATIVE RULES

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

A. Rule Number 4 CSR 240-36.020
Diskette File Name Final Rule 240-36.020
Name of Person to call with questions about this rule:
Content Nathan Williams Phone 573-751-8702 FAX 573-751-9285
Data Entry Tammy Vieth Phone 573-751-8377 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)

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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RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-36.020

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.)

Subsection (2) is revised to eliminate the proposed requirement for the applicant to list the cases in which provision of telecommunications services in Missouri is authorized and the telecommunications services that are being provided in Missouri, or to list the cases in which an application for authority to provision telecommunications services in Missouri is pending or a statement of why the applicant is not certified by the commission.

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

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

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

June 10, 2004

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

Dear Secretary Blunt,

Re: Final Order of Rulemaking 4 CSR 240-36.020

CERTIFICATION OF ADMINISTRATIVE RULE

I hereby certify that the attached is an accurate and complete copy of the order of rulemaking lawfully submitted by the Missouri Public Service Commission for filing on this 10th day of June 2004.

Statutory Authority: Section 386.410

If there are any questions, please contact:

Nathan Williams
Senior Counsel
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8702, FAX (573) 751-9285
nathan.williams@psc.mo.gov

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 36—Alternative Dispute Resolution Procedural
Rules Governing Filings Made Pursuant to the
Telecommunications Act of 1996**

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SECRETARY OF STATE
NOTICE OF RULEMAKING

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.410 RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-36.020 Filing Procedures is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on February 2, 2004 (29 MoReg 197-98). 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 and associated proposed rules was held March 12, 2004, and the public comment period ended March 5, 2004. At the public hearing, Nathan Williams, Senior Counsel in General Counsel's Office of the Public Service Commission of Missouri, and Natelle Dietrich, Regulatory Economist III of the Public Service Commission of Missouri provided oral responses to written comments. In addition, orally at the public hearing, Mike Dandino provided comments for the Office of the Public Counsel; Mimi McDonald, Senior Counsel for Southwestern Bell Telephone, LP, provided comments for Southwestern Bell Telephone, LP; Carl Lumley of Curtis, Oetting, Heinz, Garrett & O'Keefe, P.C., provided comments for MCI WorldCom Communications, Inc., Brooks Fiber Communications of Missouri, Inc., Intermedia Communications, Inc., MCImetro Access Transmission Services, LLC and AT&T of the Southwest, Inc.; Larry Dority of Fisher and Dority, P.C., provided comments for CenturyTel of Missouri, LLC and Spectra Communications Group, LLC; and Lisa Chase of Andereck, Evans, Milne, Peace and Johnson, LLP, provided comments for Alma Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, Mid-Missouri Telephone Company, MoKan Dial, Inc. and Northeast Missouri Rural Telephone Company.

The staff of the Public Service Commission of Missouri, Southwestern Bell Telephone, L.P., Alma Telephone Company, Chariton Valley Telephone Corporation, Choctaw Telephone Company, Mid-Missouri Telephone Company, MoKan Dial, Inc. and Northeast Missouri Rural Telephone Company, MCI WorldCom Communications, Inc., Brooks Fiber Communications of Missouri, Inc., Intermedia Communications, Inc., MCImetro Access Transmission Services, LLC and AT&T of the Southwest, Inc. and Sprint filed written comments.

COMMENT: Three specific comments were directed to this rule, in particular section (2) of the rule. Sprint suggests revising section (2) to delete all but the first sentence of that section. MCI WorldCom Communications, Inc., Brooks Fiber Communications of Missouri, Inc., Intermedia

Communications, Inc., MCImetro Access Transmission Services, LLC and AT&T of the Southwest, Inc. question that the rule would not cost the industry more than \$500 to preserve and maintain historic information regarding prior cases. The staff of the Public Service Commission suggests modifying the existing language to reduce the amount of information required and therefore reduce the burden it places on a petitioner. The effect of implementing any of these comments would be to not require a petitioner to provide a “list of the telecommunications service(s) the petitioner offers in Missouri.”

RESPONSE AND EXPLANATION OF CHANGE: Revision of section (2) is warranted to reduce the burden on a petitioner. Section (2) of the rule will be changed.

4 CSR 240-36.020 Filing Procedures

(2) Only telecommunications carriers, as defined in the Act, providing or in the process of enabling their provision of telecommunications service, as defined in the Act, in the state of Missouri may file petitions under this chapter.

MEMORANDUM

TO: Dale Hardy Roberts, Secretary

THROUGH: Dan Joyce

FROM: Nathan Williams

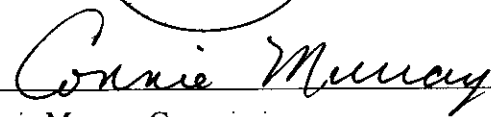
DATE: June 8, 2004

SUBJECT: APPROVAL OF FINAL RULE 4 CSR 240-36.020 AND
AUTHORIZATION TO FILE ORDER ADOPTING FINAL RULE
4 CSR 240-36.020 WITH THE OFFICE OF THE SECRETARY OF
STATE

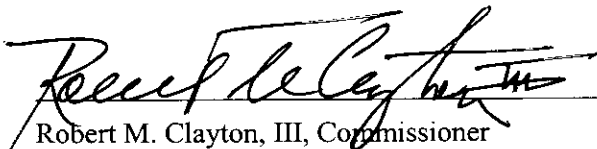
The undersigned Commissioners hereby adopt final rule 4 CSR 240-36.020 and authorize the General Counsel's Office of the Missouri Public Service Commission to file the final rule packet for CSR 240-36.020 with the Office of the Secretary of State.



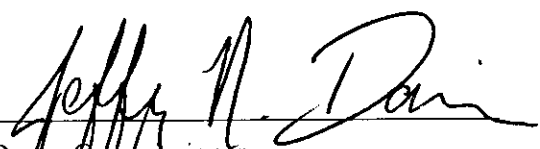
Steve Gaw, Chair



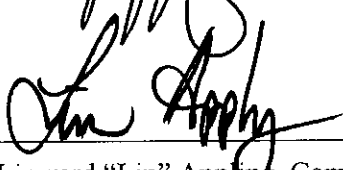
Connie Murray, Commissioner



Robert M. Clayton, III, Commissioner



Jeff Davis, Commissioner



Linward "Lin" Applng, Commissioner