

- /23./24. Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8);
/24./25. Maysville (Willow Brook Lake);
/25./26. Mark Twain National Forest (Fourche Lake, Huzzah Pond, Loggers Lake, McCormack Lake, Noblett Lake, Roby Lake);
/26./27. Mineral Area College (Quarry Pond);
/27./28. Odessa (Lake Venita);
/28./29. Pershing State Park ponds;
/29./30. Potosi (Roger Bilderback Lake);
/30./31. Unionville (Lake Mahoney);
/31./32. University of Missouri (Dairy Farm Lake No. 1, McCredie Lake);
/32./33. Warrensburg (Lion's Lake);
/33./34. Watkins Mill State Park Lake; **and**
/34./35. Windsor (Farrington Park Lake);

(B) Black bass less than eighteen inches (18") total length must be returned to the water unharmed immediately after being caught on the following lakes:

1. Ballwin (New Ballwin Lake, Vlasik Park Lake);
2. Columbia (Twin Lake);
3. Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake);
4. Ferguson (January-Wabash Lake);
5. Jennings (Koeneman Park Lake);
6. Kirkwood (Walker Lake);
7. Overland (Wild Acres Park Lake);
8. Sedalia Water Department (Spring Fork Lake);
9. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake);
10. St. Louis City (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake);
11. St. Louis County (Bee Tree **Park** Lake, *[Bellevue Park Lake,] Blackjack Lake, Carp Lake, Creve Coeur Park Lake, Fountain Lake, Island Lake, Jarville Lake, Simpson Lake, Spanish Lake, Sunfish Lake, [Suson Park Lakes Nos. 1, 2, and 3], Tilles Park Lake, Veteran's Memorial Park Lake*);
12. University of Missouri (South Farm R-1 Lake); **and**
13. Wentzville (Community Club Lake);

(C) Black bass less than twenty inches (20") total length must be returned to the water unharmed immediately after being caught on Mexico (Teal Lake)./;

(6) Flathead catfish less than twenty-four inches (24") total length must be returned to the water unharmed immediately after being caught on **Concordia (Edwin A. Pape Lake), Higginsville City Lake, and St. Louis County (Bee Tree Park Lake, Sunfish Lake).**

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 7, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180,

Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION
Division 10—Conservation Commission
Chapter 20—Wildlife Code: Definitions**

PROPOSED AMENDMENT

3 CSR 10-20.805 Definitions. The commission proposes to amend subsection (27)(G) of this rule.

PURPOSE: This amendment adds brook trout to the list of game fish commonly known as salmon, char, and trout.

(27) Game fish: Shall include the following in which the common names are to be interpreted as descriptive of, but not limiting, the classification by Latin names:

(G) *Oncorhynchus*, *Salvelinus*, and *Salmo*, all species commonly known as salmon, **char**, and trout.

AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-11.805. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed March 7, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.010 Definitions. The commission is amending sections (5), (6), (8), (13), and (15), adding new section (21), deleting sections (9) and (17), and renumbering subsequent sections.

PURPOSE: This amendment adds the definition of "staff counsel" and changes the definition of "commission staff" and "general counsel" to better define those terms and to incorporate changes to the commission's organizational structure. The amendment also deletes the definitions of "highly confidential information" and "proprietary information" because those definitions are more clearly defined elsewhere in this chapter. The definition of "pleading" and "presiding officer" are also revised to make them more inclusive.

(5) Commission staff means all personnel employed by the commission whether on a permanent or contractual basis *[who are not attorneys in the general counsel's office, who are not members of the commission's research department, or who are*

not law judges.] except commissioners; commissioner support staff, including technical advisory staff; personnel in the secretary's office; and personnel in the general counsel's office, including personnel in the adjudication department. Employees in the staff counsel's office are members of the commission staff.

(6) Complainant means the commission, any person, corporation, municipality, political subdivision, the Office of the Public Counsel, the commission staff through the *[general] staff counsel's office*, or public utility who files a complaint with the commission.

(8) General counsel means the attorney who serves as counsel to the commission and includes the general counsel and all other attorneys who serve in the office of the general counsel **but does not include attorneys employed in the staff counsel's office. The general counsel appears for the commission and performs all duties and services as attorney and counsel to the commission which the commission may reasonably require.**

[(9) Highly confidential information may include material or documents relating directly to specific customers; employee-sensitive information; marketing analyses or other market-specific information relating to services offered in competition with others; reports, work papers or other documentation related to work produced by internal or external auditors or consultants; strategies employed, or to be employed, or under consideration in contract negotiations.]

[(10)](9) Oath means attestation by a person signifying that he or she is bound in conscience and by the laws regarding perjury, either by swearing or affirmation to tell the truth.

[(11)](10) Party includes any applicant, complainant, petitioner, respondent, intervenor, or public utility in proceedings before the commission. Commission staff and the public counsel are also parties unless they file a notice of their intention not to participate within the period of time established for interventions by commission rule or order.

[(12)](11) Person includes a natural person, corporation, municipality, political subdivision, state or federal agency, and a partnership.

[(13)](12) Pleading means any *[application, complaint, petition, answer, motion, staff recommendation, or other similar written document, which is not a tariff or correspondence, and which is filed in a case. A brief is not a pleading under this definition]* written document, including any exhibits or other attachments, filed with the commission that seeks a specific action or remedy, except that briefs and tariffs are not pleadings under this definition.

[(14)](13) Political subdivision means any township, city, town, village, and any school, road, drainage, sewer, and levee district, or any other public subdivision, public corporation, or public quasi-corporation having the power to tax.

[(15)](14) Presiding officer means a commissioner, or a law judge licensed to practice law in the state of Missouri and appointed by the commission to preside over a case **or any portion of a case.**

[(16)](15) Public counsel means the Office of the Public Counsel as created by the Omnibus State Reorganization Act of 1974[,] and includes the assistants who represent the public before the commission.

[(17) Proprietary information may include trade secrets, as well as confidential or private technical, financial and business information.]

[(18)](16) Public utility includes every pipeline corporation, gas corporation, electrical corporation, telecommunications corporation, water corporation, heat or refrigeration corporation, sewer corporation, any joint municipal utility commission pursuant to section 386.020, RSMo, which is regulated by the commission, or any other entity described by statute as a public utility which is to be regulated by the commission.

[(19)](17) Respondent means any person as defined herein or public utility subject to regulation by the commission against whom any complaint is filed.

[(20)](18) Rule means all of these rules as a whole or the individual rule in which the word appears, whichever interpretation is consistent with the rational application of this chapter.

[(21)](19) Settlement officer means a presiding officer who has been delegated to facilitate the settlement of a case.

[(22)](20) Schedule means any attachment, table, supplement, list, output, or any other document affixed to an exhibit.

(21) Staff counsel means any attorney employed to represent the staff of the commission in proceedings before the commission. For administrative purposes only, the staff counsel's office is considered part of the general counsel's office and the chief staff counsel reports to the general counsel. However, the staff counsel's office performs its advocacy functions independently, under the direction of the chief staff counsel in consultation with the executive director and the directors of the operations and utility services divisions.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in 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 amendment and may be asked to respond to commission questions.*

SPECIAL NEEDS: *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 (voice) or Relay Missouri at 711.*

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED RULE

4 CSR 240-2.025 Commission Address and Business Hours

PURPOSE: This rule provides the physical and mailing address, as well as the hours of business for the Public Service Commission.

(1) The Public Service Commission's principal office is located in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri 65102.

(2) The public may obtain information, make requests, or make submissions by mail addressed to the Secretary of the Commission, Missouri Public Service Commission, PO Box 360, Jefferson City, MO 65102, electronically at the commission's Internet website, or in person at the commission's principal office during regular business hours.

(3) The regular business hours of the Missouri Public Service Commission are Monday through Friday, 8:00 a.m. to 5:00 p.m., except on state holidays when the offices are closed.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed March 2, 2011.

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, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rule is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in 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.

SPECIAL NEEDS: 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 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.030 Records of the Commission. The commission is amending sections (1) and (2) and adding new sections (3), (4), and (5).

PURPOSE: Section (1) is amended for consistency, and section (2) is amended and sections (3), (4), and (5) are added to make fees for copies of public records comply with section 610.026, RSMo.

(1) The secretary of the commission shall keep a full and true record of all the proceedings of the commission, of all books, maps, documents, and papers ordered filed by the commission, of all orders made by each of the commissioners, and of all orders made by the commission or approved and confirmed by it and ordered filed. In addition, the secretary of the commission shall maintain a docket of all cases filed and cases set for hearing and shall assign each matter an appropriate case number. These records shall be available for public inspection in the office of the secretary of the commission, during [reasonable] regular business hours, Monday through Friday, except for legal holidays. The specific hours the records are available shall be posted at the principal office of the commission.

(2) Copies of public records[, official documents, pleadings, transcripts, briefs, and orders filed with the commission] may be requested from the secretary of the commission. Any such request shall be made in writing. [Copies of records, official documents, pleadings, transcripts, briefs, and orders furnished to public officers for use in their official capacity may be provided without charge. Copies shall be provided to all others as follows:

(A) Records, official documents, pleadings, briefs, and orders, thirty-five cents (35¢) per page;

(B) Certificate under seal, one dollar (\$1);

(C) Transmittal by facsimile device, fifty cents (50¢) per page;

(D) Copies of official transcripts, fifty cents (50¢) per page. A diskette shall be provided upon request with a request for a printed copy of the transcript.]

(3) The fees for copying public records shall not exceed ten cents (\$.10) per page for a paper copy not larger than nine inches by fourteen inches (9" × 14"), with the hourly fee for duplicating time not to exceed the average hourly rate of pay for the clerical staff of the commission fulfilling the request and the actual cost of research time. The commission shall utilize employees to make copies and conduct the research so that the lowest amount of charges are incurred based on the scope of the request.

(4) Fees for providing access to public records maintained on computer facilities, recording tapes or disks, videotapes or films, pictures, maps, slides, graphics, illustrations, or similar audio or visual items or devices, and for paper copies larger than nine inches by fourteen inches (9" × 14") shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the public governmental body required for making copies and programming, if necessary, and the cost of the disk, tape, or other medium used for the duplication. Fees for maps, blueprints, or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints, or plats. If programming is required beyond the customary and usual level to comply with a request from records or information, the fees for compliance may include the actual costs of such programming.

(5) Copies may be provided without charge or at a reduced charge to public officers for use in their official capacity, or in any other situation where the Public Service Commission determines that waiver or reduction of the fee is in the public interest

because it is likely to contribute significantly to public understanding of the operations or activities of the Public Service Commission and is not primarily in the commercial interest of the requester.

AUTHORITY: sections 386.300 and 386.410, RSMo [Supp. 1998] 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Amended: Filed July 26, 1999, effective Jan. 30, 2000. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment is estimated to cost private entities one hundred fifty dollars (\$150) in the aggregate per year for each year the rule is effective.

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in 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 amendment and may be asked to respond to commission questions.

SPECIAL NEEDS: 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 (voice) or Relay Missouri at 711.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: Title 4 -- Department of Economic Development
Division Title: Division 240 -- Public Service Commission
Chapter Title: Chapter 2 -- Practice and Procedure**

Rule Number and Title:	4 CSR 240-2.030 Records of the Commission
Type of Rulemaking:	Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
11	Individuals, Small Law Firms or Associations	\$100 per year
2	Large Law Firms	\$50 per year

III. WORKSHEET

\$100 + \$50 = \$150 per year each year for the life of the rule

IV. ASSUMPTIONS

- The Commission assumes that it will have the same number of records requests by the same types of entities or individuals for each year for the life of the rule as it had in FY2010.
- The Commission assumes that the rule will exist indefinitely and at a minimum five years.
- In FY 2010 the Commission charged the same amounts as under Section 610.026, RSMo, which it will also charge for the life of the rule.
- In FY 2010 the Commission charged approximately \$50 to large law firms (100 or more employees) for records requests.
- In FY 2010 the Commission charged approximately \$100 to individuals and small law firms or associations (less than 100 employees).

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.040 Practice Before the Commission. The commission is amending sections (1), (3), and (4).

PURPOSE: Section (1) is being amended to reflect the new organizational structure of the commission distinguishing “staff counsel” from the “general counsel.” Section (3) is amended to clarify that a visiting attorney must provide proof of compliance with Supreme Court Rule 6.01(m). Section (4) is being amended to allow a Rule 13 certified law student to appear before the commission without petitioning the commission.

(1) The [general] staff counsel represents the **commission** staff in investigations, contested cases, and other proceedings [and appears for the commission in all courts and before federal regulatory bodies; and in general performs all duties and services as attorney and counsel to the commission which the commission may reasonably require] **before the commission.**

(3) Attorneys who wish to practice before the commission shall fully comply with its rules and also comply with one (1) of the following criteria:

(C) Any attorney who is not a member of the Missouri Bar, but who is a member in good standing of the bar of any court of record, may petition the commission for leave to be permitted to appear and participate in a particular case under all of the following conditions:

1. The visiting attorney shall file in a separate pleading a statement identifying each court of which that attorney is a member and certifying that neither the visiting attorney nor any member of the attorney’s firm is disqualified to appear in any of these courts;

2. The statement shall designate some member in good standing of the Missouri Bar having an office within Missouri as associate counsel; [and]

3. The designated Missouri attorney shall simultaneously enter an appearance as an attorney of record[.]; and

4. The visiting attorney shall provide a receipt or a statement showing that he or she has complied with the requirement of Missouri Supreme Court Rule 6.01(m).

(4) An eligible law student **certified under Missouri Supreme Court Rule 13** may [petition the commission to be allowed to] **appear before the commission as an attorney.** Such application must comply with any applicable rules or statutes.

AUTHORITY: section 386.410, RSMo [Supp. 1998] 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the

commission’s offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission’s electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission’s offices in 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 amendment and may be asked to respond to commission questions.

SPECIAL NEEDS: 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 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED RESCISSION

4 CSR 240-2.045 Electronic Filing. This rule prescribed the procedure for electronic filing before the commission.

PURPOSE: This rule is being rescinded because electronic filing has been used for more than five (5) years at the commission and practitioners and the public are generally familiar with the process, thus a separate rule is no longer necessary. In addition, electronic filing is authorized elsewhere in this chapter and, therefore, this rule is redundant.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed Dec. 7, 2001, effective May 30, 2002. Rescinded: Filed March 2, 2011.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission’s offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission’s electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rescission is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission’s offices in 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 rescission and may be asked to respond to commission questions.

SPECIAL NEEDS: 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 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.050 Computation of Time. The commission is amending sections (2) and (3).

PURPOSE: Section (2) is amended to clarify the effective date and time of commission orders. Section (3) is amended to change the standard required to get an extension of time from “where the failure to act was the result of excusable neglect” to “for good cause shown.”

(2) **Except when the issuance and effective date are the same, //in** computing the effective date of any order of the commission, the day the order was issued shall not be included, and the order is considered effective at ~~[12:01]~~ **12:00** a.m. on the effective date designated in the order, whether or not the date is a Saturday, Sunday, or legal holiday. **If the effective date and the issuance date are the same, the order shall be effective at the date and time the order is issued by the commission.**

(3) When an act is required or allowed to be done by order or rule of the commission at or within a specified time, the commission~~/, at its discretion,/~~ may—

(B) After the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect **or for other good cause shown.**

AUTHORITY: section 386.410, RSMo [Supp. 1998] 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission’s offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission’s electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission’s offices in 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 amendment and may be asked to respond to commission questions.

SPECIAL NEEDS: 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 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.060 Applications. The commission is amending sections (1), (3), and (5).

PURPOSE: Subsection (1)(J) is being amended to clarify that incorporated associations or entities created by statute do not have to file a list of members. Section (3) is being amended to change the term “purchaser” to “a necessary party to a transaction” because the entities governed by the rule are not always involved in a sale or purchase. Section (5) is being amended to exempt telecommunications companies and interconnected voice over Internet protocol (VoIP) companies from having to seek commission approval for name changes under this rule.

(1) All applications shall comply with the requirements of these rules and shall include the following information:

(J) If any applicant is an association, **other than an incorporated association or other entity created by statute**, a list of all of its members;

(3) If ~~[the purchaser]~~ **a necessary party to a transaction for which approval is sought** under the provisions of 4 CSR 240-3.110, 4 CSR 240-3.115, 4 CSR 240-3.210, 4 CSR 240-3.215, 4 CSR 240-3.310, 4 CSR 240-3.315, 4 CSR 240-3.405, 4 CSR 240-3.410, 4 CSR 240-3.520, 4 CSR 240-3.525, 4 CSR 240-3.605, or 4 CSR 240-3.610 is not subject to the jurisdiction of the commission, but will be subject to the commission’s jurisdiction after the ~~[sale, the purchaser]~~ **transaction, the necessary party** must comply with these rules.

(5) **[A] Except for telecommunications companies and providers of video services or interconnected voice over Internet protocol (VoIP) services, a name change may be accomplished by filing the items below with a cover letter requesting a change of name.** Notwithstanding any other provision of these rules, the items required herein may be filed by a nonattorney. Applications for approval of a change of name shall include:

AUTHORITY: sections 386.250 and 386.410, RSMo 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the **Code of Stat Regulations**. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission’s offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission’s electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission’s offices in 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 amendment and may be asked to respond to commission questions.

SPECIAL NEEDS: *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 (voice) or Relay Missouri at 711.*

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED RULE

4 CSR 240-2.062 Required Notices for Telecommunications Companies and IVoIP or Video Service Providers

PURPOSE: *This rule reflects the change in section 392.420, RSMo, which provides that the Public Service Commission no longer has the authority to apply or enforce the provisions of sections 392.270 through 392.340, RSMo, in certain instances. Specifically, the commission will no longer approve name changes or company reorganizations for telecommunications companies. The proposed rule replaces the application processes with notice requirements and specifies how video and interconnected voice over Internet protocol (IVoIP) service providers should notify the commission of name changes.*

(1) A telecommunications company that changes its name shall submit a letter to the commission notifying it of the change of name. The notice shall include:

(A) A statement, clearly setting out both the old name and the new name;

(B) Evidence of registration of the name change with the Missouri secretary of state;

(C) A copy of the notice sent to customers to inform them of the name change at or before the next billing cycle after any name change; and

(D) An adoption notice and revised tariff title sheet reflecting the new name, to be effective ten (10) days after the filing thereof. The adoption notice shall be substantially as follows: “The (name of telecommunications company) hereby adopts, ratifies, and makes its own, in every respect as if the same had been originally filed by it, all tariffs filed with the Public Service Commission, State of Missouri, by the (name of telecommunications company) prior to (date).”

(2) A telecommunications company that reorganizes through a merger, asset sale, etc., shall submit a letter to the commission that describes the mechanics of the reorganization, as well as the following:

(A) If the company changes its name or adopts a fictitious name, all of the information required in section (1) above;

(B) A request to cancel any certificates or tariffs that will no longer be used (if applicable); and

(C) A statement that the company has reviewed its contacts in the commission’s electronic filing and information system (EFIS) and that they have been updated to reflect the reorganization.

(3) A provider of video service or interconnected voice over Internet protocol (IVoIP) service that changes its name shall notify the commission of that change. Notice may be made by one (1) of the following methods:

(A) Sending a letter to the commission as set forth in section (1) above;

(B) Submitting a Notice of Change Form; or

(C) Submitting a revised Application Form.

(4) Notwithstanding any other provision of Chapter 2 and Chapter 3 of these rules, items required by this rule may be submitted by a nonattorney.

AUTHORITY: *sections 386.250 and 386.410, RSMo 2000 and section 392.420, RSMo Supp. 2010. Original rule filed March 2, 2011.*

PUBLIC COST: *This proposed rule is estimated to cost state agencies or political subdivisions one thousand five hundred thirty-one dollars and thirty-three cents (\$1,531.33) per year for the life of the rule.*

PRIVATE COST: *This proposed rule is estimated to cost private entities more than nine thousand two hundred fifty dollars (\$9,250) per year for the life of the rule.*

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, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission’s offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission’s electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rule is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission’s offices in 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.*

SPECIAL NEEDS: *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 (voice) or Relay Missouri at 711.*

**FISCAL NOTE
PUBLIC COST**

- I. Department Title: Title 4 -- Department of Economic Development
Division Title: Division 240 – Public Service Commission
Chapter Title: Chapter 2 – Practice and Procedure**

Rule Number and Name:	4 CSR 240-2.062 Required Notices for Telecommunications Companies and IVoIP or Video Service Providers
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Public Service Commission	\$1531.33 per year for the life of the rule

III. WORKSHEET

3 paper telecommunications name changes X (\$10.31 + \$76.27 + \$17.19) = \$311.31

9 electronic telecommunications name changes X (\$76.27 + \$17.19) = \$841.14

3 electronic telecommunications “mergers” X (\$76.27 + \$17.19) = \$280.38

10 video or IVoIP name changes X \$9.85 = \$98.50

Total per year cost to the Commission \$1531.33 per year

IV. ASSUMPTIONS

- Twelve (12) telecommunications name changes were filed in FY 2009. Three (3) of these were submitted into the system by the Commission’s Data Center personnel and nine (9) were submitted electronically into the Commission’s Electronic Filing and Information System (EFIS).
- Three (3) telecommunications merger or reorganizations were filed in FY 2009.
- The number of telecommunications filings for name changes and reorganizations will remain the same each year for the life of the rule.
- If a paper telecommunications company filing is made and the Data Center must submit it into EFIS, it requires approximately forty-five (45) minutes of Data Center personnel time at \$13.75 per hour personnel expense to the

commission (\$10.31). In addition, commission telecommunications department staff and legal staff spend the following amount of time per name change or merger: Telecommunications Analyst II, 2.5 hours at \$18.61 per hour; Rate & Tariff Examiner Supervisor, 15 minutes at \$29.00 per hour; Senior Counsel, .5 hour at \$35.13 per hour; and Legal Secretary, 15 minutes at \$19.70 per hour (\$76.27 total other personnel cost).

- In addition, telecommunications name changes or mergers require additional Data Center processing costs even if filed electronically. This cost is estimated at \$17.19 (1.25 hours at \$13.75 per hour).
- The Data Center spends approximately \$6.88 (.5 hours at a personnel cost of \$13.75 per hour) to the Commission on a video or IVoIP service provider name change. Other commission personnel cost is approximately \$14.59 (.5 hours at an average pay of \$29.17 per hour).
- The number of VoIP name changes is estimated to be no more than ten (10) per year based on past experience which was not tracked.
- To process a video or IVoIP name change is expected to cost the Commission \$9.85 (.5 hours of commission personnel time at a cost of \$19.70 per hour).
- The life of the rule is unknown but is expected to be at least five years.
- The Commission would have experienced a greater cost in personnel time under the previous rule 4CSR 240-2.060, from which the telecommunications company portions of this rule was removed and promulgated as a new rule. In addition, the Commission will save personnel time having an accurate record of video and IVoIP providers because of its statutory duty to track these companies.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title: Title 4 -- Department of Economic Development
Division Title: Division 240 – Public Service Commission
Chapter Title: Chapter 2 – Practice and Procedure**

Rule Number and Title:	4 CSR 240-2.062 Required Notices for Telecommunications Companies and IVoIP or Video Service Providers
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Telecommunications Companies	15	\$8250 per year for the life of the rule
Video Service Providers	5	\$500 per year for the life of the rule
IVoIP service Providers	5	\$500 per year for the life of the rule

III. WORKSHEET

3 telecommunications merger notices X \$750 = \$2250
12 telecommunications name change notices X \$500 = \$6,000
10 IVoIP name change notices X \$100 = \$1000
Total company costs \$9250 per year for the life of the rule

IV. ASSUMPTIONS

- **Twelve (12) telecommunications name changes were filed in FY 2009. Three (3) of these were submitted into the system by the Commission's Data Center personnel and nine (9) were submitted electronically into the Commission's Electronic Filing and Information System (EFIS).**
- **Three (3) telecommunications merger or reorganizations were filed in FY 2009.**
- **All the merger and reorganization notices for telecommunications companies will be filed by an attorney. Attorney fees for such filings will cost on average \$750.**

- All of the name change notices for telecommunications companies will be made by nonattorneys or if made by attorneys will cost no more than an average of \$500 per filing.
- The number of telecommunications filings for name changes and reorganizations will remain the same each year for the life of the rule.
- The number of IVoIP name changes is estimated to be no more than ten (10) per year based on past experience which was not tracked.
- The IVoIP name change notices will be filed by nonattorneys at a cost of under \$100 to the company to compose a letter and mail or submit it electronically to the Commission.
- The life of the rule is unknown but is expected to be at least five years.
- Telecommunications companies were already complying with more stringent and more cumbersome requirements under 4 CSR 240-2.060 from which these provisions have been moved, thus it is believed that sections (1) and (2) of the rule require no new costs from those companies.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.065 Tariff Filings Which Create Cases. The commission is adding a new section (4) and renumbering and amending sections (4) and (5).

PURPOSE: This rule is being amended to give notice to practitioners before the commission of the procedure for handling tariff filings now allowed under statute. The rule is also being amended to remove the requirement of providing eight (8) paper copies of tariffs in addition to the original.

(4) A case file shall be established for a tariff filing in which the commission is required by law or requested by the party filing the tariff to specifically approve the tariff.

[(4)](5) A case file will not be established to consider tariff sheets submitted by a regulated utility which do not meet the circumstances of sections (1)–*[(3)]***(4)** of this rule, except that a case file shall be established when tariff sheets are suspended by the commission on its own motion or~~,~~ when suspended~~,~~ upon the recommendation of staff.

[(5)](6) When a public utility extends the effective date of a tariff, it shall file *[one (1) original, and eight (8) copies of]* a letter extending the tariff effective date in the official case file. Notwithstanding any other provision of these rules, this letter may be filed by a nonattorney.

AUTHORITY: section 386.410, RSMo [Supp. 1998] 2000. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in 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 amendment and may be asked to respond to commission questions.*

SPECIAL NEEDS: *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 (voice) or Relay Missouri at 711.*

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.070 Complaints. The commission is amending section (1), adding new sections (2) and (5), amending and renumbering sections (2), (3), (7), (10), (11), and (14), deleting section (5), and renumbering the remaining sections.

PURPOSE: Section (1) is being amended to reflect the current organizational structure of the commission and to clarify the language. Section (2) is being amended to clarify that an informal complaint does not have to be filed before a formal complaint may be filed but that the presiding officer may require it, to point complainants to other relevant sections of the rules, and to remove an incorrect phone number for the hearing impaired. The remaining changes to the rule are to reorganize its provisions for clarity.

(1) [The commission on its own motion, the commission staff through the general counsel, the office of the public counsel, or a]Any person or public utility who feels aggrieved by an alleged violation of any statute, rule, order, or decision within the commission's jurisdiction may file a complaint. [The aggrieved party, or complainant, has the option to file either an informal or a formal complaint.] A complaint may also be filed by the commission on its own motion, the commission staff through the staff counsel, or the office of the public counsel.

(2) A person who feels aggrieved by an alleged violation of any statute, rule, order, or decision within the commission's jurisdiction may file an informal complaint with the commission's consumer services department or file either a formal complaint or small formal complaint with the commission. Filing an informal complaint is not a prerequisite to filing a formal or small formal complaint; however, the presiding officer may direct that a pro se complainant be required to go through the informal complaint procedure before the formal complaint will be heard by the commission. If an allegedly aggrieved person initially files an informal complaint and is not satisfied with the outcome, such person may also file a formal or small formal complaint.

[(2)](3) Informal Complaints. The protections and processes of an informal complaint regarding service or billing practices are set out in 4 CSR 240-13. To file an informal complaint, the complainant shall state, either in writing, by telephone (consumer services hotline 1-800-392-4211~~,~~ or [TDD hotline 1-800-829-7541] Relay Missouri at 711), or in person at the commission's offices—

(A) The name, street address, and telephone number of each complainant and, if one (1) person asserts authority to act on behalf of the others, the source of that authority;

(B) The address where the utility service was rendered;

(C) The name and address of the party against whom the complaint is filed;

(D) The nature of the complaint~~,~~ and the complainant's interest therein;

(E) The relief requested; and

(F) The measures taken by the complainant to resolve the complaint.

[(3)](4) Formal Complaints. [If a complainant is not satisfied with the outcome of the informal complaint, a formal complaint may be filed.] A [F]ormal complaint may be made by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any person, corporation, or public utility, including any rule or charge established or fixed by or for any person,

corporation, or public utility, in violation or claimed to be in violation of any provision of law or of any rule or order or decision of the commission. **The formal complaint shall contain the following information:**

(A) The name and street address of each complainant and, if different, the address where the subject utility service was rendered;

(B) The signature, telephone number, facsimile number, and email address of each complainant or their legal representative, where applicable;

(C) The name and address of the person, corporation, or public utility against whom the complaint is being filed;

(D) The nature of the complaint and the complainant's interest in the complaint, in a clear and concise manner;

(E) The relief requested;

(F) A statement as to whether the complainant has directly contacted the person, corporation, or public utility about which complaint is being made;

(G) The jurisdiction of the commission over the subject matter of the complaint; and

(H) If the complainant is an association, other than an incorporated association or other entity created by statute, a list of all its members.

(5) [However, n/No complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates or charges of any public utility unless the complaint is signed by the public counsel, the mayor or the president or chairman of the board of aldermen or a majority of the council or other legislative body of any town, village, county, or other political subdivision, within which the alleged violation occurred, or not fewer than twenty-five (25) consumers or purchasers or prospective consumers or purchasers of public utility gas, electricity, water, sewer, or telephone service as provided by law. Any public utility has the right to file a formal complaint on any of the grounds upon which complaints are allowed to be filed by other persons and the same procedure shall be followed as in other cases.

[(4)](6) The commission shall not be required to dismiss any complaint because of the absence of direct damage to the complainant.

[(5) The formal complaint shall contain the following information:

(A) The name, street address, signature, telephone number, facsimile number and electronic mail address, where applicable, of each complainant and, if different, the address where the subject utility service was rendered;

(B) The name and address of the person, corporation or public utility against whom the complaint is being filed;

(C) The nature of the complaint and the complainant's interest in the complaint, in a clear and concise manner;

(D) The relief requested;

(E) A statement as to whether the complainant has directly contacted the person, corporation or public utility about which complaint is being made;

(F) The jurisdiction of the commission over the subject matter of the complaint; and

(G) If the complainant is an association, a list of all its members.]

[(6)](7) The commission, on its own motion or on the motion of a party, may after notice dismiss a complaint for failure to state a claim on which relief may be granted or failure to comply with any provision of these rules or an order of the commission, or may strike irrelevant allegations.

[(7)](8) Upon the filing of a complaint in compliance with these rules, the secretary of the commission shall serve by certified mail,

postage prepaid, a copy of the complaint upon the person, corporation, or public utility against whom the complaint has been filed, which shall be accompanied by a notice that the matter complained of be satisfied or that the complaint be answered by the respondent, unless otherwise ordered, within thirty (30) days of the date of the notice.

[(8)](9) The respondent shall file an answer to the complaint within the time provided. All grounds of defense, both of law and of fact, shall be raised in the answer. If the respondent has no information or belief upon the subject sufficient to enable the respondent to answer an allegation of the complaint, the respondent may so state in the answer and assert a denial upon that ground.

[(9)](10) If the respondent in a complaint case fails to file a timely answer, the complainant's averments may be deemed admitted and an order granting default entered. The respondent has seven (7) days from the issue date of the order granting default to file a motion to set aside the order of default and extend the filing date of the answer. The commission may grant the motion to set aside the order of default and grant the respondent additional time to answer if it finds good cause.

[(10)](11) The commission may order, at any time after the filing of a complaint, an investigation by its staff as to the cause of the complaint. The staff shall file a report of its findings with the commission and all parties to the complaint case. The investigative report shall not be made public unless released in accordance with section/s 386.480, 392.210(2), or 393.140(3), RSMo, or during the course of the hearing involving the complaint.

[(11)](12) When the commission determines that a hearing should be held, the commission shall fix the time and place of the hearing. The commission shall serve notice upon the affected person, corporation, or public utility not fewer than ten (10) days before the time set for the hearing, unless the commission finds the public necessity requires that the hearing be held at an earlier date.

[(12)](13) All matters upon which a complaint may be founded may be joined in one (1) hearing and no motion for dismissal shall be entertained against a complainant for misjoinder of causes of action or grievances or misjoinder or nonjoinder of parties.

[(13)](14) When an order is rendered disposing of a case, the regulatory law judge shall cause the parties to be notified that the order will be final unless an application for rehearing is filed within the allotted number of days and provide information regarding the rehearing and appeal process.

[(14)](15) Small Formal Complaint Case. If, *after complying with the informal complaint process established by section (2) of this rule,* a customer of a utility files a formal complaint regarding any dispute involving less than three thousand dollars (\$3,000), the process set forth in this section shall be followed for such complaints. The provisions of sections (1)–**[(13)](14)** of this rule shall also apply to such complaints unless they directly conflict with the provisions of this section, in which case the provisions of this section shall apply.

(A) When a complaint is filed that qualifies for handling as a small formal complaint, the assigned regulatory law judge shall direct the secretary of the commission to serve, by certified mail, postage prepaid, a copy of the complaint upon the person, corporation, or public utility against whom the complaint has been filed. At the same time, the regulatory law judge shall notify all parties that the complaint will proceed under the small formal complaint process. The person, corporation, or public utility against whom the complaint has been filed is allowed thirty (30) days after the date of notice to satisfy the complaint or file an answer. If the person, corporation, or public utility

does not satisfy the complaint or file an answer within thirty (30) days, the regulatory law judge may issue an order granting default and deeming the allegations of the complaint to have been admitted by the respondent. A party in default has seven (7) days from the issue date of the order granting default to file a motion to set aside the order of default. The regulatory law judge may grant the motion to set aside the order of default and allow the respondent additional time to answer upon a showing of good cause.

(B) If any party believes that a complaint should or should not be handled as a small formal complaint, that party may file a motion with the commission requesting that the status of the complaint be changed. In response to such motion, or acting on its own motion, the commission shall, at its discretion, decide how the complaint shall be handled.

(C) Upon the filing of a complaint that qualifies under this section, the chief regulatory law judge shall assign the case to a regulatory law judge. To process small complaint cases in the timeliest manner and in the most convenient location for the customers, the commission hereby delegates the commission's authority to hear the case, make rulings, and issue a recommended report and order or other appropriate order disposing of the case to such regulatory law judge.

(D) The commission's staff shall, within forty-five (45) days after the complaint is filed, investigate the complaint and file a report detailing staff's findings and recommendations. The regulatory law judge may allow staff additional time to complete its investigation for good cause shown. The member or members of the commission's staff who investigate the complaint shall be available as a witness at the hearing if the regulatory law judge or any party wishes to call them to testify. Staff shall not advocate a position beyond reporting the results of its investigation. If staff believes it should advocate a position, it may file a motion to change the status of the complaint under subsection (B) of this section.

(E) Any hearing, unless otherwise agreed to by the parties, shall be held in the county, or a city not within a county, where the subject utility service was rendered or within thirty (30) miles of where the service was rendered. The regulatory law judge may allow any party, witness, or attorney to participate in the hearing by telephone.

(F) Small formal complaint case hearings shall be conducted in an informal summary manner whenever possible, without affecting the rights of the parties—

1. The technical rules of evidence shall not apply;
2. The regulatory law judge shall have the authority to dispense with pre-filed written testimony; and
3. The regulatory law judge shall assume an affirmative duty to determine the merits of the claims and defenses of the parties and may question parties and witnesses.

(G) The regulatory law judge, after affording the parties reasonable opportunity for discovery and a fair hearing, shall issue a recommended report and order within one hundred (100) days following the filing of the complaint, unless the regulatory law judge finds good cause to extend that time or the extension is otherwise agreed to by the parties.

(H) Any party subject to a recommended order disposing of the case or a recommended report and order issued by a regulatory law judge under this section may file with the commission, within ten (10) days of the issuance of the recommended order, comments supporting or opposing the recommended order. Any comments opposing the recommended order shall contain specific detailed grounds upon which it claims the order is unlawful, unjust, or unreasonable. The commission may approve or reject the recommended order based on the existing record without further hearing. If the commission rejects the recommended order, the commission shall issue its own order based on the evidence previously submitted, or upon such additional evidence, as the commission shall choose to receive.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please

consult the Code of State Regulations. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in 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 amendment and may be asked to respond to commission questions.

SPECIAL NEEDS: 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 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.075 Intervention. The commission is amending sections (1) and (2), adding new sections (4), (5), (6), (7), (8), and (9), deleting section (3), and renumbering and amending sections (4), (5), and (6).

*PURPOSE: Sections (1), (4), and (5) are being amended to change "application to intervene" to "motion to intervene," to avoid requiring applicants for intervention to file all the information required in an application, much of which is superfluous. Sections (2) and (3) are amended to include a complete list of the information that must be included in a motion to intervene and to clarify that incorporated associations or entities created by statute do not need to list their members. New section (4) clarifies that the commission may limit a prospective party's intervention to particular issues or interests in a given case. Section (6) is amended to clarify that any brief filed as an *amicus curiae* must comply with all applicable briefing requirements. Changes and additions are also made to this rule in order to minimize confusion associated with an association appearing in different cases under the same name when the members are different in each case. Changes are also made to prevent unincorporated associations from changing its members without following the necessary rules for intervention.*

(1) [An application] A motion to intervene [shall comply with these rules and] or add new member(s) shall be filed within thirty (30) days after the commission issues its order giving notice of the case, unless otherwise ordered by the commission.

(2) *[An application to intervene shall state]* A motion to intervene or add new member(s) shall include:

(A) The legal name of each association, person, or entity seeking intervention or to be added;

(B) The street and mailing address of the principal office or place of business of each association, person, or entity seeking intervention or to be added, or of their attorney;

(C) The email address, fax number, and telephone number, if any, of each association, person, or entity seeking intervention or to be added, or their attorney;

(D) If any applicant is an association, other than an incorporated association or other entity created by statute, a list of all of its members;

(E) A statement of the proposed intervenor's or new member's interest in the case and reasons for seeking intervention[, or to be added; and *[shall state]*

(F) A statement as to whether the proposed intervenor or new member supports or opposes the relief sought or that the proposed intervenor or new member is unsure of the position it will take.

[[3] An association filing an application to intervene shall list all of its members.]

[[4]](3) The commission may *[on application permit any person to intervene on a showing that]* grant a motion to intervene or add new member(s) if—

(A) The proposed intervenor or new member(s) has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case; or

(B) Granting the proposed intervention would serve the public interest.

(4) If the commission grants intervention to an association, other than an incorporated association or other entity created by statute, the commission is not granting intervention to the “association,” but is granting intervention to the individual members of the association.

(5) For purposes of 4 CSR 240-2.080(16), service upon counsel for an association satisfies the requirement for service upon the individual members of the association.

(6) If any member(s) of an association, other than an incorporated association or other entity created by statute, that is a party to any case before the commission withdraws from the association during the pendency of a case, the association must file a notice of the member's(s') withdrawal in the official case file within five (5) days of the member's(s') withdrawal.

(7) If an association, other than an incorporated association or other entity created by statute, that is a party to any case before the commission wants to add an additional member(s) during the pendency of that case, the association must file a motion to add new member(s).

(8) If the commission finds that the name of any association, other than an incorporated association or other entity created by statute, seeking intervention in a case before the commission could lead to confusion or misidentification of that association or its members, the commission may order that the association be identified by an alternate name in that case.

(9) The commission may limit an intervention to particular issues or interests in a case.

[[5]](10) [Applications] Motions to intervene or add new member(s) filed after the intervention date may be granted upon a showing of good cause. Any motion so filed must include a definitive statement whether or not the entity seeking intervention or to be

added as a new member accepts the record established in that case, including the requirements of any orders of the commission, as of the date the motion is filed.

[[6]](11) Any person not a party to a case may petition the commission for leave to file a brief as an *amicus curiae*. The petition for leave must state the petitioner's interest in the matter and explain why an *amicus* brief is desirable and how the matters asserted are relevant to the determination of the case. The brief may be submitted simultaneously with the petition. Unless otherwise ordered by the commission, the brief must be filed no later than the initial briefs of the parties **and comply with all applicable briefing requirements**. If leave to file a brief as an *amicus curiae* is granted, the brief shall be deemed filed on the date submitted. An *amicus curiae* may not file a reply brief.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 26, 2002, effective Nov. 30, 2002. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in 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 amendment and may be asked to respond to commission questions.*

SPECIAL NEEDS: *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 (voice) or Relay Missouri at 711.*

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission Chapter 2—Practice and Procedure

PROPOSED AMENDMENT

4 CSR 240-2.080 Pleadings, Filing, and Service. The commission is amending section (1), adding new sections (2), (9), and (15), deleting sections (4), (6), (10), (11), and (18), and renumbering and amending the rest of the sections.

PURPOSE: *A majority of the proposed amendments to this rule are to simply reorganize its current requirements and rewrite sentences for clarity. Section (3) is amended to require a statement of facts in pleadings. Sections (5) and (14) make the rejection of pleadings*

discretionary instead of mandatory. Section (8) is amended to remove the requirement to file unnecessary paper copies. Section (11) is amended so that electronic filings are considered filed on the date they are electronically received and paper filings may be made during regular business hours of the commission. Section (12) allows the caption of a pleading to contain more than one (1) case caption. Renumbered sections (15) and (20) are amended to conform with the actual practice and the parties expectations that they have ten (10) days to respond to pleadings unless otherwise ordered. Section (21) is amended to remove overly detailed requirements for setting out issues for hearing that the parties often asked to be waived.

(1) Every pleading or brief shall be signed by *[at least one (1)]* an attorney of record with the attorney's individual name or, if a natural person is not represented by an attorney, shall be signed by the natural person.

(2) By signing a pleading, the signer represents that he or she is authorized to so act.

[(2)](3) Pleadings or briefs shall *[state]* include the signer's address, *[Missouri]* state bar number(s), *e[lectronic]* mail address, fax number, and telephone number, if any. *[If the attorney is not licensed in Missouri the signature shall be followed by the name of the state in which the attorney is licensed and any identifying number or nomenclature similarly used by the licensing state.]*

[(3)](4) Each pleading shall include a clear and concise statement of the relief requested, *[and]* a specific reference to the statutory provision or other authority under which relief is requested, and a concise statement of the facts entitling the party to relief.

[(4) Except when provided by rule or statute, pleadings or briefs need not be verified or accompanied by affidavit.]

(5) An unsigned pleading or brief *[shall]* may be rejected.

[(6) By signing a pleading, the signer represents that he or she is authorized to so act, and that the signer is a licensed attorney-at-law in good standing in Missouri or has complied with the rules below concerning any attorney who is not a Missouri attorney or is appearing on his or her own behalf.]

[(7)](6) By presenting or maintaining a claim, defense, request, demand, objection, contention, or argument in a pleading, motion, brief, or other document filed with or submitted to the commission, an attorney or party is certifying to the best of the signer's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that—

(A) The claim, defense, request, demand, objection, contention, or argument is not presented or maintained for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(B) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(C) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(D) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

[(8)](7) Any person filing a pleading or a brief shall file with the secretary of the commission either~~[-]~~—

(A) *[One (1) paper]* The original *[and eight (8) paper copies of the pleading or brief];* or

(B) An electronic copy *[of the pleading or brief as permitted elsewhere in these rules].*

[(9)](8) Each pleading may be accompanied by a cover letter which states the subject matter. This cover letter shall contain no matter for commission decision.

[(10) The party filing a pleading or brief shall serve each other party a copy of the pleading or brief and cover letter. Any party may contact the secretary of the commission for the names and addresses of the parties in a case.]

[(11) The date of filing shall be the date the pleading or brief is stamped filed by the secretary of the commission. Pleadings or briefs received after 4:00 p.m. will be stamped filed the next day the commission is regularly open for business.]

(9) Any document's filing date shall be the date and time the document is physically or electronically stamped as filed by the secretary of the commission. Documents physically received in the commission's data center during regular business hours shall be stamped on the date received. Documents physically received in the commission's data center after regular business hours shall be stamped the next day that the commission has regular business hours. Documents submitted electronically to the commission's electronic information and filing system (EFIS) will be stamped filed by EFIS on the date and time the document is received in EFIS.

[(12)](10) Pleadings and briefs in every instance shall display on the cover or first page the case number and the title of the case. In the event the title of a case contains more than one (1) name as applicants, complainants, or respondents, it shall be sufficient to show only the first of these names as it appears in the first document commencing the case, followed by an appropriate abbreviation (et al.) indicating the existence of other parties. *[Unless a case is consolidated, pleadings or briefs shall be filed with only one (1) case number and title thereon.]*

[(13)](11) Pleadings and briefs that are not electronically filed shall be bound at the top or at an edge, shall be typewritten or printed upon white, eight and one-half by eleven-inch (8 1/2" × 11") paper. Attachments to pleadings or briefs shall be annexed and folded to eight and one-half by eleven-inch (8 1/2" × 11") size whenever practicable. Printing on both sides of the page is encouraged. Lines shall be double-spaced, except that footnotes and quotations in excess of three (3) lines may be single-spaced. Reproduction of any of these documents may be by any process provided all copies are clear and permanently legible. Electronically filed pleadings or briefs shall be formatted in the same manner as paper filings.

[(14)](12) Pleadings and briefs which are not in substantial compliance with this rule, applicable statutes, or commission orders *[shall]* may not be accepted for filing. In addition, filings will be scanned for computer viruses before being uploaded into the commission's electronic system and may not be accepted if the filing is infected. The secretary of the commission may return these pleadings or briefs with a concise explanation of the deficiencies and the reasons for not accepting them for filing. Tendered filings which have been rejected *[shall]* may not be entered on the commission's docket. The mere fact of filing shall not constitute a waiver of any noncompliance with these rules, and the commission may require amendment of a pleading or entertain appropriate motions in connection with the pleading.

[[15]](13) Parties shall be allowed *[not more than]* ten (10) days from the date of filing in which to respond to any pleading unless otherwise ordered by the commission.

[[16]](14) Any *[party seeking]* request for expedited treatment *[in any case]* shall include *[in the title of the pleading]* the words “Motion for Expedited Treatment” **in the title of the pleading**. The pleading shall also set out with particularity the following:

- (A) The date by which the party desires the commission to act;
- (B) The harm that will be avoided, or the benefit that will accrue, including a statement of the negative effect, or that there will be no negative effect, on the party’s customers or the general public, if the commission acts by the date desired by the party; and
- (C) That the pleading was filed as soon as it could have been or an explanation why it was not.

(15) Unless otherwise provided by these rules or by other law, the party filing a pleading or brief shall serve every other party, including the staff counsel and the public counsel, a copy of the pleading or brief and cover letter. Any party may contact the secretary of the commission for the names and addresses of the parties in a case.

[[17]](16) Methods of Service.

(A) Any person entitled by law may serve a document on a represented party by—

- 1. Delivering it to the party’s attorney;
 - 2. Leaving it at the office of the party’s attorney with a secretary, clerk, or attorney associated with or employed by the attorney served;
 - 3. Mailing it to the last known address of the party’s attorney;
 - 4. Transmitting it by facsimile machine to the party’s attorney;
- or
- 5. Transmitting it to the e/-mail address of the party’s attorney.

(B) Any person entitled by law may serve a document on an unrepresented party by—

- 1. Delivering it to the party; or
- 2. Mailing it to the party’s last known address.

(C) Completion of Service.

- 1. Service by mail is complete upon mailing.
- 2. Service by facsimile transmission is complete upon actual receipt.
- 3. Service by *electronic* /mail is complete upon actual receipt.

[[18]] Unless otherwise provided by these rules or by other law, the party filing a pleading or brief shall serve every other party, including the general counsel and the public counsel, a copy of the pleading or brief and cover letter.]

[[19]](17) Every pleading or brief shall include a certificate of service. Such certificate of service shall be adequate proof of service.

[[20]](18) Any pleading may be amended within ten (10) days of filing, unless a responsive pleading has already been filed, or at any time by leave of the commission. **Parties shall be allowed ten (10) days from the date of filing in which to respond to an amended pleading unless otherwise ordered by the commission.**

[[21]](19) Any list of issues ordered by the commission must *[contain one (1) or more]* set out each question/s] presented for decision. **Each question presented should be clear and concise.], stated in the following form per issue: in three (3) separate sentences, with factual and legal premises, followed by a short question; in no more than seventy-five (75) words; and with enough facts woven in that the commission will understand how the question arises in the case.**

(A) The questions must be clear and brief, using the style of the following examples of issue statements, which illus-

trate the clarity and brevity that the parties should aim for:

1. *Example A: The Administrative Procedures Act does not require the same administrative law judge to hear the case and write the final order. ABC Utility Company filed an appeal based on the fact that the administrative law judge who wrote the final order was not the administrative law judge who heard the case. Is it reversible error for one administrative law judge to hear the case and a different administrative law judge to write the final opinion?*

2. *Example B: For purposes of establishing rates, ABC Utility Company is entitled to include in its costs expenses relating to items that are used or useful in providing services to its customers. ABC Utility Company has spent money to clean up environmental damages resulting from the operation of manufactured-gas plants some 70 to 80 years ago. Should ABC Utility Company be allowed to include these expenses among its costs in establishing its future natural gas rates?]*

AUTHORITY: section 386.410, RSMo 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission’s offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission’s electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission’s offices in 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 amendment and may be asked to respond to commission questions.

SPECIAL NEEDS: 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 (voice) or Relay Missouri at 711.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

PROPOSED RESCISSION

4 CSR 240-2.085 Protective Orders. This rule prescribed the procedures for obtaining a protective order.

PURPOSE: This rule is being rescinded because it is being incorporated into 4 CSR 240-2.135.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Aug. 24, 1999, effective April 30, 2000. Rescinded: Filed March 2, 2011.

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission 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 rescission with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed rescission is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in 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 rescission and may be asked to respond to commission questions.

SPECIAL NEEDS: 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 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.110 Hearings. The commission is amending sections (4)–(8).

PURPOSE: This rule is being amended to give broader authority to the presiding officer in handling procedural matters, to reflect the current organizational structure of the commission, to specifically state that a court reporter may be used in proceedings other than a formal hearing, to simplify the procedure for correcting a transcript, and make other non-substantive clarifications and cosmetic changes to the rule.

(4) *[The presiding officer may limit the number of witnesses, exhibits, or the time for testimony including limitations consistent with the application of the rules of evidence.]* **The presiding officer shall establish a procedural schedule through one (1) or more procedural orders in which the hearing and conference dates are set, date for filing testimony and pleadings are set, and any other applicable parameters are established concerning the order of witnesses, exhibits, or the time for testimony.**

(5) The order of procedure in hearings shall be as follows, unless otherwise agreed to by the parties or ordered by the presiding officer:

(A) In all cases except investigation cases, the applicant or complainant shall open and close, with intervenors following the general

counsel, or his designee, and the public counsel in introducing evidence; and

(B) In investigation cases, the general counsel, or his designee, shall open and close; and

(C) *In rate cases, the general counsel shall be given the first opportunity to cross-examine.*

(6) A reporter appointed by the commission shall make a full and complete record of *[all cases and testimony in any formal hearing]* **the entire proceeding in any formal hearing or other hearing or proceeding at which the commission determines reporting is appropriate.**

(7) Suggested corrections to the transcript of record shall be offered within ten (10) days after the transcript is filed, except for good cause shown. The suggestions shall be in writing and shall be *[served upon the presiding officer and each party]* **filed in the official commission file.** Objections to proposed corrections shall be made in writing within ten (10) days after the filing of the suggestions. The commission shall determine what changes, if any, shall be made in the record after a review of the suggested corrections and any objections.

(8) A party may request that the commission reopen *[a case]* **the record** for the taking of additional evidence if the request is made after the hearing has been concluded, but before briefs have been filed or oral argument presented, or before a decision has been issued in the absence of briefs or argument. Such a request shall be made by filing *[with the secretary of the commission a petition]* **a motion** to reopen the record for the taking of additional evidence *[in accordance with these rules, and serving the petition on all other parties].* The *[petition]* **motion** shall *[specify the facts which allegedly constitute grounds in]* **assert the justification[,] for taking additional evidence** including material changes of fact or of law alleged to have occurred since the conclusion of the hearing. The petition shall also contain a brief statement of the proposed additional evidence, and an explanation as to why this evidence was not offered during the hearing.

AUTHORITY: section 386.410, RSMo [Supp. 1998] 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the **Code of State Regulations**. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in 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 amendment and may be asked to respond to commission questions.

SPECIAL NEEDS: 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 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.116 Dismissal. The commission is amending the purpose clause and section (1).

PURPOSE: The purpose clause is being amended because it did not accurately reflect the purpose of the rule. Section (1) is being amended to alter one (1) of the ways to dismiss a complaint after evidence has been offered or prefiled testimony filed. That portion is amended to require the consent of all of the parties instead of just the “adverse” parties to dismiss a complaint without leave of the commission.

PURPOSE: This rule prescribes the conditions under which the commission or an initiating party may dismiss a case or by which any party may be dismissed.

(1) An applicant or complainant may voluntarily dismiss an application or complaint without an order of the commission at any time before prepared testimony has been filed or oral evidence has been offered[,] by filing a notice of dismissal with the commission [and serving a copy on all parties]. Once evidence has been offered or prepared testimony filed, an applicant or complainant may dismiss an action only by leave of the commission, or by written consent of all the [adverse] parties.

AUTHORITY: section 386.410, RSMo [Supp. 1998] 2000. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission’s offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission’s electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission’s offices in 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 amendment and may be asked to respond to commission questions.*

SPECIAL NEEDS: 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 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.125 Procedures for Alternative Dispute Resolution. The commission is amending sections (1), (2), and (3), renumbering section (6), and deleting sections (4) and (5).

PURPOSE: Section (1) is amended to remove a requirement that was cumbersome and not necessary. Section (2) is amended for clarity and to specifically state that all other time limitations in the commission case will be tolled until a mediation is complete.

(1) Settlement Negotiations.

(A) When the parties agree that the participation of a presiding officer in the settlement process would be beneficial, those parties shall file a motion for appointment of a settlement officer for that case. The motion shall contain—

1. A statement that all parties agree to the procedure;
2. A list of the issues to be addressed or matters the parties wish the presiding officer to aid them in resolving; and
- [3. If there is no prefiled testimony, a description of the issues of each party; and]

[4.3. A date by which a settlement will be reached or settlement negotiations under this procedure will end.

(2) Mediation.

(A) The commission may order [that] mediation [proceed in a complaint case] before any further proceeding in [such] a case.

(B) As the commission deems appropriate, or upon [the filing of] a request for mediation [by any party, mediation services may be provided by a presiding officer or by a neutral third party for the purpose of identifying the issues and attempting a resolution], the commission may appoint a presiding officer or other neutral third party other than the presiding officer assigned to the case to mediate the dispute.

(C) [The written application for mediation services should include the case number, the names of each party and a brief explanation of the case.] All other actions on the case shall cease and all time limitations shall be tolled pending the completion of mediation process, except as otherwise provided by law.

[(3)](D) The [settlement officer or the] mediator[, if that mediator is also a presiding officer,] shall be disqualified from conducting an evidentiary hearing relating to that particular case and shall not make any communication regarding the settlement or mediation discussions in the case to any commissioner or the presiding officer appointed to preside over the case.

[(4) The commission may order parties to engage in alternative dispute resolution with a commission authorized mediator.]

[(5) At any time, upon the request for mediation or upon the issuance of an order requiring mediation, the commission may order that all other actions on the case cease and all time limitations be tolled pending the completion of mediation process.]

[(6)](E) Failure to appear and participate in good faith in commission ordered mediation shall be grounds for sanctions including dismissal or default of the noncompliant party.

AUTHORITY: section 386.410, RSMo [Supp. 1998] 2000. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in 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 amendment and may be asked to respond to commission questions.

SPECIAL NEEDS: 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 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.130 Evidence. The commission is amending sections (2), (6), (9)–(12), and (15), adding a new section (8), (9), and (17), renumbering sections (8), (13), (14), and (16), and deleting section (17).

PURPOSE: Most of the edits to this rule are to reorganize it and to clarify the authority of the presiding officer in procedural matters, such as directing the pre-marking of exhibits. New section (8) allows the staff of the commission to file a single report rather than the traditional individually filed testimony for direct testimony. New section (9) specifically states that direct testimony may be live instead of written pre-filed testimony. Section (17) clarifies that there are ten (10) days to object to a late-filed exhibit. Section (18) corrects a rule reference.

(2) If any information contained in a document on file as a public record with the commission is offered in evidence, the document need not be produced as an exhibit unless directed otherwise by the presiding officer, but may be received in evidence by reference, provided that the particular portions of the document shall be specifically identified and are relevant and material. **The information may**

be assigned an exhibit number for identification.

(6) **Format for [P]prepared testimony.** *[may be filed electronically. If prepared testimony is not filed electronically it]*

(A) It shall be typed or printed, in black type on a white *[paper]* page that is eight and one-half inches by eleven inches (8 1/2" × 11")*[/; it]*.

(B) It shall be double-spaced and have pages numbered consecutively at the bottom right-hand corner or bottom center beginning with the first page as page 1*[/;]*.

(C) **If not filed electronically,** it shall be filed unfolded and stapled together at the top left-hand margin or bound at an edge in booklet form*[/; and it]*.

(D) It shall have *[the following margins: left-hand margin, one inch (1"); top margin, one inch (1"); right-hand margin, one inch (1"); and bottom margin, one inch (1"). Printing on both sides of the page is encouraged.]* **at least a one-inch (1") margin on the top, bottom, and both sides.**

(E) Schedules shall bear the word "schedule," and the number of the schedule shall be typed in the lower right-hand margin of the first page of the schedule.

(F) All prepared testimony and other exhibits and schedules shall contain the following information in the following format on the upper right-hand corner of a cover sheet:

Exhibit No.:	(To be marked by the hearing reporter)
Issue:	(If known at the time of filing)
Witness:	(Full name of witness)
Type of Exhibit:	(Specify whether direct, rebuttal, or other type of exhibit)

Sponsoring Party:

Case No.:

Date Testimony Prepared:

[The prepared testimony of each witness shall be filed separately and shall be accompanied by an affidavit providing the witness' oath. Prepared testimony]

(G) It shall be filed on line-numbered pages.

(H) Testimony that addresses more than one (1) issue shall contain a table of contents.

(I) Electronically filed prepared testimony shall be formatted and labeled in the same manner as paper filings.

(J) **Printing on both sides of the page is encouraged.**

(8) Except as set out in this section, the prepared testimony of each witness shall be filed separately and shall be accompanied by an affidavit providing the witness's oath. In lieu of prepared direct testimony, any party may file a report that presents in narrative form the analysis and conclusions of one (1) or more expert witness(es) and the facts and information on which they relied. In any report, the contributing expert witnesses shall be listed together with an indication of the portion or portions of the report to which each contributed. The qualifications of each contributing expert witness shall be attached to the report as a schedule. Any such report shall be filed electronically and shall comply with the commission's filing requirements set forth above.

(9) In any case, the commission or presiding officer may direct that testimony be taken live rather than prepared in advance.

[(8)](10) No party shall be permitted to supplement prefiled prepared direct, rebuttal, or surrebuttal testimony unless ordered by the presiding officer or the commission. A party shall not be precluded from having a reasonable opportunity to address matters not previously disclosed which arise at the hearing. This provision does not forbid the filing of supplemental direct testimony for the purpose of replacing projected financial information with actual results.

[(9)](11) Any or all parties may file a stipulation as to the facts[, *in which event the same shall be numbered as a joint exhibit*]. This stipulation shall not preclude the offering of additional evidence by any party *[unless otherwise agreed]* **except as specified** in the stipulation.

[(10)](12) Exhibits shall be legible and, unless otherwise authorized by the commission *[or filed electronically]*, shall be prepared on a standard eight and one-half by eleven inch (8 1/2" × 11")-size *[paper]* **page**. The *[sheets]* **pages** of each exhibit shall be numbered and rate comparisons and other figures shall be set forth in tabular form.

[(11)](13) Exhibits shall be tendered to the reporter at the time of hearing without being prenumbered by the offering party, unless otherwise ordered by the *[commission]* **presiding officer**.

[(12)](14) All exhibits shall be marked at the time of hearing, using a single series of numbers, unless otherwise ordered by the *[commission]* **presiding officer**.

[(13)](15) Unless the presiding officer directs otherwise, when exhibits that have not previously been filed are offered in evidence, the original shall be furnished to the reporter, and the party offering exhibits also shall be prepared to furnish a copy to each commissioner, the presiding officer, and each party.

[(14)](16) The presiding officer may require the production of further evidence upon any issue. The presiding officer may authorize the filing of specific evidence as a part of the record within a fixed time after submission, reserving exhibit numbers, and setting other conditions for such production.

(17) Unless otherwise ordered, any objection to the admission of a post-hearing exhibit must be filed within ten (10) days of the date the exhibit was filed.

[(15)](18) Evidence for which a claim of confidentiality is made shall be *[filed in conformance with a protective order approved by the commission. Parties shall obtain a protective order prior to filing of documentary evidence, except as permitted otherwise by these rules]* **provided in conformance with 4 CSR 240-2.135 or with any protective order specific to that information.**

[(16)](19) All testimony shall be taken under oath.

[(17)] **All post-hearing exhibits shall be filed with the secretary of the commission in compliance with 4 CSR 240-2.080. Unless otherwise ordered, any objection to the admission of a post-hearing exhibit must be filed within ten (10) days of the date the exhibit was filed.]**

AUTHORITY: section 386.410, RSMo 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission,

Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in 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 amendment and may be asked to respond to commission questions.

SPECIAL NEEDS: 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 (voice) or Relay Missouri at 711.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

PROPOSED AMENDMENT

4 CSR 240-2.135 Confidential Information. The commission is amending sections (3), (4), (7), (19), and (20), adding a new section (2), and renumbering sections accordingly.

PURPOSE: The amendment to this rule incorporates portions of 4 CSR 240-2.080, *Protective Orders*, which is being rescinded.

(2) Protective Order. In addition to discovery and testimony which may be designated as highly confidential or proprietary without a protective order from the commission as set out in this rule, any person may seek an order protecting information from disclosure by the commission. A request for a protective order shall be made as follows:

(A) By filing a separate pleading denominated "Motion for Protective Order";

(B) The pleading shall state with particularity why the moving party seeks protection and what harm may occur if the information is made public;

(C) The pleading shall also state whether any of the information for which a claim of confidentiality is made can be found in any other open public document;

(D) The information provided to the commission may be designated as highly confidential or proprietary while the motion is pending;

(E) Any information designated as highly confidential or proprietary shall be provided in a redacted public version and a complete confidential version the same as for testimony as set out in section (11) of this rule; and

(F) If the motion is granted, the information shall be protected from disclosure as set out in sections (3)–(22) of this rule.

[(2)](3) When a party seeks discovery of information that the party from whom discovery is sought believes to be confidential, the party from whom discovery is sought may designate the information as proprietary or highly confidential.

(A) No order from the commission is necessary before a party in any case pending before the commission may designate material as proprietary or highly confidential and such information shall be protected as provided in this rule.

(B) The party that designates information as proprietary or highly confidential must inform, in writing, the party seeking discovery of the reason for the designation at the same time it responds to the discovery request. If the party seeking discovery disagrees with the designation placed on the information, it must utilize the informal discovery dispute resolution procedures set forth at 4 CSR 240-2.090(8). If the party seeking discovery continues to disagree with the designation placed on the information, it may file a motion challenging the designation.

(C) This rule does not require the disclosure of any information that would be protected from disclosure by any privilege, rule of the commission, or the Missouri Rules of Civil Procedure.

[(3)](4) Proprietary information may be disclosed only to the attorneys of record for a party and to employees of a party who are working as subject-matter experts for those attorneys or who intend to file testimony in that case, or to persons designated by a party as an outside expert in that case.

(A) The party disclosing information designated as proprietary shall serve the information on the attorney for the requesting party.

(B) If a party wants any employee or outside expert to review proprietary information, the party must identify that person to the disclosing party by name, title, and job classification~~/,~~ before disclosure. Furthermore, the person to whom the information is to be disclosed must comply with the certification requirements of section **[(6)](7)** of this rule.

(C) A customer of a utility may view his or her own customer-specific information, even if that information is otherwise designated as proprietary.

[(4)](5) Highly confidential information may be disclosed only to the attorneys of record, or to outside experts that have been retained for the purpose of the case.

(A) Employees, officers, or directors of any of the parties in a proceeding, or any affiliate of any party, may not be outside experts for purposes of this rule.

(B) The party disclosing highly confidential information~~/,~~ may, at its option, make such information available only on the furnishing party's premises, unless the discovering party can show good cause for the disclosure of the information off-premises.

(C) The person reviewing highly confidential information may not make copies of the documents containing the information and may make only limited notes about the information. Any such notes must also be treated as highly confidential.

(D) If a party wants an outside expert to review highly confidential information, the party must identify that person to the disclosing party before disclosure. Furthermore, the outside expert to whom the information is to be disclosed must comply with the certification requirements of section **[(6)](7)** of this rule.

(E) Subject to subsection **[(4)](5)(B)**, the party disclosing information designated as highly confidential shall serve the information on the attorney for the requesting party.

(F) A customer of a utility may view his or her own customer-specific information, even if that information is otherwise designated as highly confidential.

[(5)](6) If any party believes that information must be protected from disclosure more rigorously than would be provided by a highly confidential designation, it may file a motion explaining what information must be protected, the harm to the disclosing entity or the public that might result from disclosure of the information, and an explanation of how the information may be disclosed to the parties that require the information while protecting the interests of the disclosing entity and the public.

[(6)](7) Any employee of a party that wishes to review proprietary information, or any outside expert retained by a party that wishes to review highly confidential or proprietary information must first cer-

tify in writing that he or she will comply with the requirements of this rule.

(A) The certification must include the signatory's full name, permanent address, title or position, date signed, the case number of the case for which the signatory will view the information, and the identity of the party for whom the signatory is acting.

(B) The signed certificate shall be filed in the case.

(C) The party seeking disclosure of the highly confidential or proprietary information must provide a copy of the certificate to the disclosing party before disclosure is made.

[(7)](8) Attorneys possessing proprietary or highly confidential information or testimony may make such information or testimony available only to those persons authorized to review such information or testimony under the restrictions established in sections **[(3)](4)** and **[(4)](5)**.

[(8)](9) If information to be disclosed in response to a discovery request is information concerning another entity—whether or not a party to the case—which the other entity has indicated is confidential, the disclosing party must notify the other entity of its intent to disclose the information. If the other entity informs the disclosing party that it wishes to protect the material or information, the disclosing party must designate the material or information as proprietary or highly confidential under the provisions of this rule.

[(9)](10) Any party may use proprietary or highly confidential information in prefiled testimony, in a pleading, or at hearing, if the same level of confidentiality assigned by the disclosing party, or the commission, is maintained. Before including nonpublic information that it has obtained outside this proceeding in its pleading or testimony, a party must ascertain from the source of the information whether that information is claimed to be proprietary or highly confidential.

[(10)](11) A party may designate portions of prefiled or live testimony as proprietary or highly confidential. Prefiled testimony that contains information designated as proprietary or highly confidential must be filed as follows:

(A) A public version of the prefiled testimony must be filed along with the proprietary or highly confidential version of the testimony. For the public version, the proprietary or highly confidential portions must be obliterated or removed. The proprietary pages must be marked "P" and the removal of proprietary information shall be indicated by one (1) asterisk before and after the information, e.g., *proprietary information removed*. The highly confidential pages must be marked "HC" with the removal of highly confidential information indicated by underlining and two (2) asterisks [and underlining] before and after the highly confidential information, e.g., **highly confidential information removed**. The designated information must be removed with blank spaces remaining so that the lineation and pagination of the public version remains the same as the highly confidential and proprietary versions;

(B) For the nonpublic version of the prefiled testimony, the proprietary pages must be marked "P" and the proprietary information indicated by one (1) asterisk before and after the information, e.g., *Proprietary*. The highly confidential pages shall be stamped "HC" with the highly confidential information indicated by underlining and by two (2) asterisks before and after the highly confidential information, e.g., **Highly Confidential**; and

(C) At the hearing, the party offering the prefiled testimony must present a public version of the testimony in which the proprietary or highly confidential portions are obliterated or removed. The public version of the testimony will be marked as Exhibit _____. The offering party must also present a separate copy of the prefiled testimony containing proprietary or highly confidential information, sealed in an envelope. The version of the testimony containing proprietary or highly confidential information will be marked as Exhibit ____ P or HC, as appropriate.

[(11)](12) Not later than ten (10) days after testimony is filed that contains information designated as proprietary or highly confidential, any party that wishes to challenge the designation of the testimony may file an appropriate motion with the commission.

(A) If the designation of the testimony is challenged, the party asserting that the information is proprietary or highly confidential must, not later than ten (10) days, unless a shorter time is ordered, file a pleading establishing the specific nature of the information that it seeks to protect and establishing the harm that may occur if that information is disclosed to the public.

(B) If the asserting party fails to file the pleading required by this section, the commission may order that the designated information be treated as public information.

[(12)](13) If a response to a discovery request requires the duplication of material that is so voluminous, or of such a nature that copying would be unduly burdensome, the furnishing party may require that the material be reviewed on its own premises, or at some other location, within the state of Missouri.

[(13)](14) If prefiled testimony includes information that has previously been designated as highly confidential or proprietary in another witness's prefiled testimony, that information must again be designated as highly confidential or proprietary.

[(14)](15) All live testimony, including cross-examination and oral argument, *[that] which* reveals information that is designated as proprietary or highly confidential, *./* may be offered only after the hearing room is cleared of all persons except those persons to whom the highly confidential or proprietary information is available under this rule. The transcript of such live testimony or oral argument will be kept under seal and copies will be provided only to the commission and the attorneys of record. The contents of such transcripts may not be disclosed to anyone other than those permitted access to the designated information under this rule.

[(15)](16) Proprietary or highly confidential information may not be quoted in briefs or other pleadings unless those portions of the briefs or other pleading are also treated as proprietary or highly confidential.

[(16)](17) All persons who have access to information under this rule must keep the information secure and may neither use nor disclose such information for any purpose other than preparation for and conduct of the proceeding for which the information was provided. This rule shall not prevent the commission's staff or the Office of the Public Counsel from using highly confidential or proprietary information obtained under this rule as the basis for additional investigations or complaints against any utility company.

[(17)](18) After receiving an appropriate writ of review, the commission will deliver proprietary and highly confidential testimony constituting part of the record before the commission to the reviewing court under seal, unless otherwise directed by the court.

[(18)](19) Within ninety (90) days after the completion of the proceeding, including judicial review, all copies of all proprietary and highly confidential information, testimony, exhibits, transcripts or briefs in the possession of any party must be returned to the party claiming a confidential interest in such information, if that party requests that the information be returned. Otherwise, the information must be destroyed by the party possessing such information. Any notes pertaining to such information must be destroyed.

[(19)](20) The provisions of sections **[(3)](4)**, **[(4)](5)**, **[(6)](7)**, **[(7)](8)**, and **[(18)](19)** of this rule do not apply to officers or employees of the commission or to the public counsel or employees of the Office of the Public Counsel. The officers or employees of the

commission and the public counsel and employees of the Office of the Public Counsel are subject to the nondisclosure provisions of section 386.480, RSMo. Neither the officers or employees of the commission, nor the public counsel and the employees of the Office of the Public Counsel shall use or disclose any information obtained in discovery for any purpose other than in the performance of their duties.

[(20)](21) Outside experts of the staff of the commission or the Office of the Public Counsel who have been contracted to be witnesses in the proceeding have access to designated information and testimony on the same basis as the staff of the commission and the Office of the Public Counsel except that the outside expert must comply with the provisions of sections **[(6)](7)** and **[(18)](19)**. Outside experts of the staff of the commission and the Office of the Public Counsel who have not been contracted to be witnesses in the proceeding are subject to all provisions of this rule.

[(21)](22) A claim that information is proprietary or highly confidential is a representation to the commission that the claiming party has a reasonable and good faith belief that the subject document or information is, in fact, proprietary or highly confidential.

[(22)](23) The commission may waive or grant a variance from any provision of this rule for good cause shown.

AUTHORITY: sections 386.040 and 386.410, RSMo 2000. Original rule filed May 25, 2006, effective Jan. 30, 2007. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in 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 amendment and may be asked to respond to commission questions.*

SPECIAL NEEDS: *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 (voice) or Relay Missouri at 711.*

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.140 Briefs and Oral Arguments. The commission is amending sections (1) and (2), renumbering section (3), deleting section (4), and adding a new section (5).

PURPOSE: This rule is amended to clarify when and how briefs and other post-hearing filings can be made and to eliminate the requirement for sending service copies of briefs by overnight mail.

(1) **In any case,** [T]he commission or presiding officer shall determine whether the parties may file briefs or present oral argument, or both, [in any case] **and may establish time and page limits.**

(2) Unless otherwise ordered by the commission or presiding officer, [when briefs are to be filed in any case, the parties shall have] **post-hearing briefs shall be filed no later than twenty (20) days after the date on which the complete transcript of the hearing is filed [to file their initial briefs].**

(3) Unless otherwise ordered by the commission or presiding officer, the parties shall have ten (10) days after the filing of the initial briefs to file their reply briefs. [When a reply brief is due ten (10) days after filing of initial briefs, the initial briefs shall be sent to all parties by overnight mail or hand-delivered on the day of filing or the next day.]

[(3)](4) Unless otherwise ordered by the commission or presiding officer, the time allowed for oral argument shall be—

(A) For an applicant or complainant, thirty (30) minutes, which may be divided between the initial argument and reply argument, but no more than one-third (1/3) of the time shall be consumed by the reply argument; and

(B) For all other parties, a total of fifteen (15) minutes each.

[(4)] *The commission may at its discretion order the parties to file suggested findings of fact, conclusions of law, and ordered paragraphs.]*

(5) Unless otherwise ordered by the commission or presiding officer, the parties may file pre-hearing briefs, statements of position, and proposed findings of fact and conclusions of law.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in 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 amendment and may be asked to

respond to commission questions.

SPECIAL NEEDS: 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 (voice) or Relay Missouri at 711.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 2—Practice and Procedure

PROPOSED AMENDMENT

4 CSR 240-2.160 Rehearings and Reconsideration. The commission is amending section (2).

PURPOSE: This rule is amended to clarify that the commission can rehear, amend, reconsider, or correct any order previously issued in the case.

(2) Motions for reconsideration of procedural and interlocutory orders may be filed within ten (10) days of the date the order is issued, unless otherwise ordered by the commission. Motions for reconsideration shall set forth specifically the ground(s) on which the applicant considers the order to be unlawful, unjust, or unreasonable. **At any time before a final order is issued, the commission may, on its own motion, reconsider, correct, or otherwise amend any order or notice issued in the case.**

AUTHORITY: section 386.410, RSMo [Supp. 1998] 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in 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 amendment and may be asked to respond to commission questions.

SPECIAL NEEDS: 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 (voice) or Relay Missouri at 711.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

PROPOSED AMENDMENT

4 CSR 240-2.180 Rulemaking. The commission is deleting section (1), amending sections (2)–(5), (7), and (8), adding a new section (4), and renumbering sections.

PURPOSE: This rule is being amended to reorganize and clarify it, to change “testimony” to “comments” to more accurately reflect the rulemaking process, and to replace statutory language with a reference to the statute.

[(1) Promulgation, amendment, or rescission of rules adopted by the commission in Division 240 of Title 4 may be proposed, adopted, and published by approval of the commission as provided by law.]

[(2)](1) Promulgation, amendment, or rescission of rules may be [instituted] initiated by the commission through an internally-generated rulemaking case, or pursuant to a rulemaking petition filed with the commission.

[(3)](2) Petitions for promulgation, amendment, or rescission of rules shall be [as follows]:

(A) Each petition for promulgation, amendment, or rescission of rules made pursuant to Chapter 536, RSMo, shall be filed with the secretary of the commission in writing and shall include:

[1.](A) The name, street address, and mailing address of the petitioner;

[2.](B) One (1) of the following:

[A.]/1. The full text of the rule sought to be promulgated[, if no rule on the subject currently exists];

[B.]/2. The full text of [the] any rule sought to be amended, including the suggested amendments[, if amendment of an existing rule is sought] clearly marked; or

[C. The full text of the existing rule and the full text of the rule proposed to replace the existing rule, if the proposed changes to the existing rule are so substantial as to make replacement of the existing rule more efficient than amendment thereof; or]

[D.]/3. The full [text] number of [the] any rule sought to be rescinded[, if rescission of an existing rule is sought];

[3.](C) A statement of petitioner’s reasons in support of the promulgation, amendment, or rescission of the rule, including a statement of all facts pertinent to petitioner’s interest in the matter;

[4.](D) Citations of legal authority which authorize, support, or require the rulemaking action requested by the petition;

[5.](E) An estimation of the effect of the rulemaking on private persons or entities with respect to required expenditures of money or reductions in income, sufficient to form the basis of a fiscal note as required under Chapter 536, RSMo; and

[6.](F) A verification of the petition by the petitioner by oath[, and].

[(B)](3) The commission shall either deny the petition in writing, stating the reasons for its decision, or shall initiate rulemaking in accordance with Chapter 536, RSMo.

(4) The commission shall comply with the notice provisions of section 536.041, RSMo, upon the disposal of any rulemaking petition.

[(4)](5) When the commission decides to promulgate, amend, or

rescind a rule, it shall [issue a notice of proposed rulemaking for the secretary of state to publish in the Missouri Register. The notice of proposed rulemaking shall contain the following:

(A) Instructions for the submission of written comments by anyone wishing to file a statement in support of or in opposition to the proposed rulemaking, by a specific date which shall not be fewer than thirty (30) days after the publication date; or

(B) Instructions and notice for both a written comment period and hearing] comply with the requirements for rulemaking in Chapter 536, RSMo.

[(5)](6) Persons wishing to file written comments or [testify] comment at the hearing need not be represented by counsel, but may be so represented if they choose.

[(6)](7) Hearings on rulemakings may be for commissioner questions or for the taking of initial or reply comments.

[(7)](8) Hearings for the taking of initial or reply comments on rulemakings shall proceed as follows:

(A) A commissioner or presiding officer shall conduct the hearing, which shall be transcribed by a reporter;

[(B) Persons wishing to testify shall be sworn by oath;]

[(C)](B) Persons [testifying] commenting at a hearing may give a statement in support of or in opposition to a proposed rulemaking. The commissioners or the presiding officer may question those persons [testifying] commenting;

[(D)](C) Statements shall first be taken from those supporting a proposed rule, followed by statements from those opposing the rule, unless otherwise directed by the presiding officer; [and]

[(E)](D) Persons [testifying] commenting may offer exhibits in support of their positions[.]; and

(E) The commission may, at the hearing, hold the hearing open for a specified period if it determines extension is reasonably necessary to elicit material information.

[(8)](9) [Within ninety (90) days after the end of a written comment period or the end of a hearing on a rulemaking, the commission shall issue an order of rulemaking which shall be published in the Missouri Register by the secretary of state. The order of rulemaking shall briefly summarize the general nature of the comments or statements made during the comment period or hearing, shall contain the findings required by] In compliance with the requirements of Chapter 536, RSMo, [and] the commission shall either—

(A) Adopt the proposed rule or proposed amendment as set forth in the notice of proposed rulemaking without further change;

(B) Adopt the proposed rule or proposed amendment with further changes;

(C) Adopt the proposed rescission of the existing rule; or

(D) Withdraw the proposed rule.

AUTHORITY: sections 386.040, 386.250, 386.310, 386.410, 392.210, 392.280, 392.290, 392.330, 393.140(3), (4), (6), (9), (11), and (12), 393.160, 393.220, 393.240, 393.290, and 394.160, RSMo [Supp. 1998] 2000 and 392.200, 392.220, 392.240, and 393.110, RSMo Supp. 2010. Original rule filed April 26, 1976, effective Sept. 11, 1976. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 2, 2011.

PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed amendment 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 amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in 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 amendment and may be asked to respond to commission questions.*

SPECIAL NEEDS: *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 (voice) or Relay Missouri at 711.*

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 50—Office of Quality Schools
Chapter 345—Missouri School Improvement Program**

PROPOSED RULE

5 CSR 50-345.105 Missouri School Improvement Program—5

PURPOSE: *This rule implements an accountability system for Missouri public school districts and is designed to stimulate and encourage improvement in student performance. An assessment of school districts' educational outcomes will enable the State Board of Education to classify districts as required by state law.*

(1) Pursuant to section 161.092, RSMo, this rule is to be effective two (2) years from the date of adoption of the proposed rule by the State Board of Education (board). The *Missouri School Improvement Program (MSIP)—5 Performance Standards and Indicators*, Appendix A, included herein, is comprised of quantitative standards for school districts.

(2) Annually, the Department of Elementary and Secondary Education (department) will select school districts which will be reviewed and classified in accordance with this rule, including the standards, using the appropriate scoring guide, forms, and procedures outlined by the department.

(3) The board will assign classification designations of unaccredited, provisionally accredited, and accredited based on the standards of the MSIP.

(4) As a condition of receiving a classification designation other than unaccredited, each school district reviewed under MSIP must maintain a current school improvement plan in a form specified by the department and implement it in accordance with a specified schedule approved by the department.

(5) A school district's classification designation based on the standards of the MSIP will remain in effect until the board approves another designation. The board may consider changing a district's

classification designation after its review or upon its determination that the district has—

(A) Failed to implement any required school improvement plan at an acceptable level;

(B) Successfully implemented its school improvement plan and, therefore, may qualify for a higher classification designation;

(C) Employed a superintendent or chief executive officer without a valid Missouri superintendent's certificate in a K-12 school district or employed a superintendent or chief executive officer without a valid Missouri superintendent's or elementary principal's certificate in a K-8 school district;

(D) Altered significantly the scope or effectiveness of the programs, services, or financial integrity upon which the original classification designation was based; and/or

(E) Failed to comply with a statutory requirement.

(6) The board of education of any school district which is dissatisfied with the classification designation assigned by the board shall request reconsideration within thirty (30) days of notice received of the original classification. The request for reconsideration shall be submitted to the commissioner of education and state the specific basis for reconsideration, including any errors of fact cited to support reconsideration. Review by the board shall be based upon the materials submitted with the original classification, the request for reconsideration, and any materials offered by the commissioner of education or requested by the board.