Rules of
Department of Economic Development
Division 240—Public Service Commission
Chapter 2—Practice and Procedure

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

4 CSR 240-2.010 Definitions

PURPOSE: This rule defines terms used in the rules comprising Chapter 2, Practice and Procedure, and supplements those definitions found in Chapter 386 of the ***Missouri Revised Statutes****.*

(1) Applicant means any person, as defined herein, or public utility on whose behalf an application is made.

(2) Certificate of service means a document or page of a document showing the caption of the case, attorney of record served or the name of the party served, the date and manner of service, and the signature of the serving party or attorney.

(3) Commission means the Missouri Public Service Commission as created by Chapter 386 of the *Missouri Revised Statutes*.

(4) Commissioner means one (1) of the members of the commission.

(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.

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

(7) Corporation includes a corporation, company, association, or joint stock company or association, or any other entity created by statute which is allowed to conduct business in the state of Missouri.

(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.

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

(13) 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.

(14) 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) 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.

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

(20) 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) Settlement officer means a presiding officer who has been delegated to facilitate the settlement of a case.

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

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Amended: Filed Aug. 17, 1998, effective March 30, 1999. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.015 Waiver of Rules

PURPOSE: This rule defines when the rules in this chapter may be waived.

(1) A rule in this chapter may be waived by the commission for good cause.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Aug. 24, 1999, effective April 30, 2000.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.020 Meetings and Hearings
(Rescinded October 30, 2009)

AUTHORITY: section 386.410, RSMo Supp. 1998. 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. Rescinded: Filed April 6, 2009, effective Oct. 30, 2009.

4 CSR 240-2.030 Records of the Commission

PURPOSE: This rule sets forth the record-keeping requirements of the commission and the availability of these records to the public. Charges for copies are subject to statutory limitations.

(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 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 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.

AUTHORITY: sections 386.300 and 386.410, RSMo Supp. 1998. 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.*

**Original authority: 386.300, RSMo 1939, amended 1947, 1984, 1995 and 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.040 Practice Before the Commission

PURPOSE: This rule sets forth who may practice as an attorney before the commission.

(1) The general counsel represents the 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.

(2) The public counsel represents the interests of the public 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:

(A) An attorney who is licensed to practice law in the state of Missouri, and in good standing, may practice before the commission;

(B) A nonresident attorney who is a member of the Missouri Bar in good standing, but who does not maintain an office for the practice of law within the state of Missouri, may appear as in the case of a resident attorney;

(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.

(4) An eligible law student may petition the commission to be allowed to appear. Such application must comply with any applicable rules or statutes.

(5) Practice by Nonattorneys. A natural person may represent himself or herself. Such practice is strictly limited to the appearance of a natural person on his or her own behalf and shall not be made for any other person or entity.

(6) After an attorney has entered an appearance for any party, the attorney may withdraw only by leave of the commission.

AUTHORITY: section 386.410, RSMo Supp. 1998. 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.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

***Smith v. Public Service Commission**, 336 SW2d 491 (Mo. 1960). Commission Rule 12.07 allowing individual party before commission held not to authorize non-lawyer individual to act as attorney for twenty-five other individuals. See also **Reed v. Labor and Industrial Relations,** 789 SW2d 19 (Mo. banc 1990) and **Clark v. Austin**, 340 Mo. 647, 101 SW2d 977 (Mo. 1937).*

4 CSR 240-2.045 Electronic Filing

PURPOSE: This rule prescribes the procedure for electronic filing before the commission.

(1) Any item or document otherwise required or permitted to be filed with the commission may be filed electronically by accessing the commission's Internet web site and following the instructions for electronic filing found there.

(2) Any item or document filed electronically shall, if received during business hours of the commission's records room, be considered filed as of that day, otherwise, such item or document shall be considered filed as of the next following business day.

(3) The electronic filing of an item or document as described in this rule shall satisfy an obligation to file the same if accomplished no later than the date upon which such filing is required.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed Dec. 7, 2001, effective May 30, 2002.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.050 Computation of Time

PURPOSE: This rule sets standards for computation of effective dates of any order or time prescribed by the commission when no specific date is set by commission order.

(1) In computing any period of time prescribed or allowed by the commission, the day of the act, event, or default shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which case the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. This rule does not apply when the commission establishes a specific date by which an action must occur, nor does it operate to extend effective dates which are established by statute.

(2) 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 a.m. on the effective date designated in the order, whether or not the date is a Saturday, Sunday or legal holiday.

(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—

(A) Order the period enlarged before the expiration of the period originally prescribed or as extended by a previous order; or

(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.

AUTHORITY: section 386.410, RSMo Supp. 1998. 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.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

***State ex rel. Alton R. Co. v. Public Service Commission**, 536 S.W.2d 766 (Mo. 1941). The effective date of an order is at the beginning of that date, rather than at its close.*

4 CSR 240-2.060 Applications

PURPOSE: Applications to the commission requesting relief under statutory or other authority must meet the requirements set forth in this rule.

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

(A) The legal name of each applicant, a brief description of the legal organization of each applicant, whether a Missouri corporation, foreign corporation, partnership, proprietorship, or other business organization, the street and mailing address of the principal office or place of business of each applicant and each applicant's electronic mail address, fax number and telephone number, if any;

(B) If any applicant is a Missouri corporation, a Certificate of Good Standing from the secretary of state;

(C) If any applicant is a foreign corporation, a certificate from the secretary of state that it is authorized to do business in Missouri;

(D) If any applicant is a partnership, a copy of the partnership agreement;

(E) If any applicant does business under a fictitious name, a copy of the registration of the fictitious name with the secretary of state;

(F) If any applicant is a political subdivision, a specific reference to the statutory provision and a specific reference to any other authority, if any, under which it operates;

(G) If any applicant has submitted the applicable information as set forth in subsections (1)(B)–(F) of this rule in a previous application, the same may be incorporated by reference to the case number in which the information was furnished, so long as such applicable information is current and correct;

(H) A brief statement of the character of business performed by each applicant;

(I) Name, title, address and telephone number of the person to whom correspondence, communications and orders and decision of the commission are to be sent, if other than to the applicant's legal counsel;

(J) If any applicant is an association, a list of all of its members;

(K) A statement indicating whether the applicant has any pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of the application;

(L) A statement that no annual report or assessment fees are overdue; and

(M) All applications shall be subscribed and verified by affidavit under oath by one (1) of the following methods: if an individual, by that individual; if a partnership, by an authorized member of the partnership; if a corporation, by an authorized officer of the corporation; if a municipality or political subdivision, by an authorized officer of the municipality or political subdivision; or by the attorney for the applicant if the application includes or is accompanied by a verified statement that the attorney is so authorized.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

(3) If the purchaser 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 must comply with these rules.

(4) In addition to the requirements of section (1), applications for variances or waivers from commission rules and tariff provisions, as well as those statutory provisions which may be waived, shall contain information as follows:

(A) Specific indication of the statute, rule or tariff from which the variance or waiver is sought;

(B) The reasons for the proposed variance or waiver and a complete justification setting out the good cause for granting the variance or waiver; and

(C) The name of any public utility affected by the variance or waiver.

(5) 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:

(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; and

(C) Either an adoption notice and revised tariff title sheet with an effective date which is not fewer than thirty (30) days after the filing date of the application, or revised tariff sheets with an effective date which is not fewer than thirty (30) days after the filing date of the application.

(6) In addition to the general requirements set forth above, the requirements found in Chapter 3 of the commission's rules pertaining to

the filing of various types of applications must also be met.

AUTHORITY: sections 386.250 and 386.410, RSMo 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Amended: Filed Feb. 3, 1987, effective May 1, 1987. Amended: Filed May 11, 1988, effective Aug. 11, 1988. Amended: Filed Feb. 5, 1993, effective Oct. 10, 1993. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

***State ex rel. Kansas City Transit, Inc. v. Public Service Commission**, 406 SW2d 5 (Mo banc 1966). Commission is an administrative body of powers limited to those expressly granted by statute or necessary or proper to effectuate statutory purpose. Commission's authority to regulate does not include right to dictate manner in which company conducts its business.*

4 CSR 240-2.061 Filing Requirements for Applications for Expanded Local Calling Area Plans Within a Community of Interest

PURPOSE: The purpose of this rule is to implement a process for the commission to entertain requests for expanded local calling area plans that provide toll-free or discounted calling within a community of interest.

(1) Definitions. For the purposes of 4 CSR 240-2.061 the following definitions are applicable:

(A) Alternative local exchange telecommunications company is a local exchange telecommunications company certified by the commission to provide basic or nonbasic local telecommunications service or switched exchange access service, or any combination of such services, in a specific geographic area subsequent to December 31, 1995.

(B) Community of interest is a group of people connected by a common calling interest or need. Community of interest includes, but is not limited to, community calling to medical services providers, educational institutions, governmental or social service offices, and commercial centers.

(C) Expanded local calling area plan(s) is a plan(s) that provides toll-free or discounted calling prices to designated exchanges within a community of interest.

(D) Illustrative tariff sheets are tariff sheets which comply with 4 CSR 240-3.545 except that such tariff sheets do not contain an issued and effective date.

(E) Incumbent local exchange telecommunications company is a local exchange telecommunications company authorized to provide basic local telecommunications service in a specific geographic area as of December 31, 1995, or a successor in interest to such company.

(F) Intercarrier compensation describes the financial arrangement used to compensate other telecommunications carriers for the use of their respective facilities in transmitting a telecommunications call.

(G) Local exchange telecommunications service is telecommunications service between points within an exchange.

(H) Metropolitan calling area (MCA) is an expanded calling area in the three (3) metropolitan areas allowing calling within and/or to metropolitan exchanges around St. Louis, Kansas City and Springfield at tiered rates. MCA telecommunications traffic originates, transits, and/or terminates pursuant to terms and conditions the Public Service Commission established in MoPSC Case Numbers TO-92-306 and TO-99-483 or as subsequently modified by commission order or rule.

(I) Subscribers are persons or companies that have contracted to receive telecommunications services.

(2) An application filed with the commission shall initiate a request for an expanded local calling area plan. The specific provisions herein shall supersede general rules contained elsewhere in this chapter. An application may be filed on behalf of:

(A) At least fifteen percent (15%) of the incumbent local exchange telecommunications service subscribers within the requesting exchange; or

(B) A governing body of a municipality or school district within the requesting exchange.

(3) The application shall comply with 4 CSR 240-2.060 and shall clearly identify and include:

(A) A description of the expanded local calling area plan;

(B) A statement explaining how the proposed plan will satisfy the objectives of the community of interest;

(C) The proposed price and terms of the plan;

(D) A statement of whether the proposed plan will be optional or mandatory for all customers in the expanded local calling scopes;

(E) A statement as to the toll or local classification of the calling plan traffic and associated inter-company compensation, if any, to be utilized to facilitate the plan; and

(F) A petition, if initiated by incumbent local exchange service subscribers as described in subsection (2)(A) above, which shall include the signatures of such subscribers, and only one (1) signature per subscriber is allowed.

(4) Each page of a petition attached to an application shall clearly identify the information in subsections (3)(A), (3)(C), (3)(D) and (3)(E) above.

(5) The commission will provide notice of the filing of the application to all local exchange telecommunications companies in the affected area. The filing of the application will initiate an Electronic Filing and Information System (EFIS) notification to all interexchange telecommunications carriers. All notifications shall include instructions on how to obtain a copy of the application.

(6) Any incumbent local exchange telecommunications company serving any exchange proposed to be affected by the application shall automatically be made a party to the case.

(7) Within sixty (60) days after the filing of the application, the commission shall convene a conference of the parties. The purpose of the conference is to discuss, at a minimum, the application and determine if any modifications should be made to the application.

(8) During the conference in section (7) above, the parties shall explore how the application's proposal could be technically implemented in the most efficient manner consistent with the community of interest. The parties shall also explore the appropriate intercarrier compensation arrangement. If the application proposes a mandatory toll-free plan or an expansion of the metropolitan calling area plan, the parties shall explore an intercarrier compensation arrangement that does not involve access charges.

(9) The applicant shall file with the commission either a statement that the application remains unchanged or alternatively identify specific modifications to the application as a result of the conference in section (7) above.

(10) Within ten (10) days after the applicant's filing in section (9) above, any party objecting to the application as proposed may file with the commission, a pleading explaining why the applicant's proposal is not acceptable.

(11) Within ninety (90) days after the commission issues an order ruling on objections to the technical sufficiency of the application or, if none, within ninety (90) days after the filing in section (9) above, any telecommunications carrier directly affected by the proposal shall file illustrative tariff sheets to implement the applicant's proposal.

(12) The illustrative tariff sheets shall identify all rate adjustment(s) necessary to implement the applicant's proposal. The company shall simultaneously file supporting documentation if it proposes to increase or establish new rates designed to maintain revenue neutrality, including the recovery of any new costs associated with implementing the proposal.

(13) The commission may hold public hearings and/or meetings in locations affected by the application.

(14) After receipt of the illustrative tariff sheets in section (12) above, the commission may hold a hearing or other appropriate proceeding. The parties will provide evidence to assist the commission in its findings.

(15) The commission, in its findings, will determine whether the proposed calling plan is just, reasonable, affordable, and in the public interest. In making these determinations, the commission will consider evidence on the competitive alternatives available, competitive implications, revenue impacts, and company and social costs of implementing the proposed expanded calling plans balanced against the objectives of the community of interest. The commission will also weigh any costs against benefits to the community of interest when making its determination.

(16) Based on the evidence in the record, the commission may modify the proposed rates, terms or conditions in its decision on the application.

AUTHORITY: section 386.250, 392.240, 392.250 and 392.470, RSMo 2000 and 392.200, RSMo Supp. 2004. Original rule filed March 4, 2005, effective Oct. 30, 2005.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 392.200, RSMo 1939, amended 1987, 1988, 1996, 2003; 392.240, RSMo 1939, amended 1987; 392.250, RSMo 1939, amended 1987; and 392.470, RSMo 1987.*

4 CSR 240-2.065 Tariff Filings Which Create Cases

PURPOSE: This rule establishes when a case shall be opened for a tariff.

(1) A general rate increase request is one where the company or utility files for an overall increase in revenues through a company-wide increase in rates for the utility service it provides, but shall not include requests for changes in rates made pursuant to an adjustment clause or other similar provisions contained in a utility's tariffs. When a public utility submits a tariff which constitutes a general rate increase request, the commission shall establish a case file for the tariff. The tariff and all pleadings, orders, briefs, and correspondence regarding the tariff shall be filed in the case file established for the tariff. The tariff submitted shall be in compliance with the provisions of the rules relating to the separate utilities. A tariff filed which proposes a general rate increase request shall also comply with the minimum filing requirements of these rules for general rate increase requests. Any public utility which submits a general rate increase request shall simultaneously submit its direct testimony with the tariff.

(2) Except when the Commission orders the filing of a tariff, when a public utility submits a tariff for commission approval but requests the tariff become effective in fewer than thirty (30) days, the commission shall establish a case file for the tariff. In addition, the public utility shall file a Motion for Expedited Treatment and comply with the expedited treatment portion of these rules. The tariff and all pleadings, orders, briefs, and correspondence shall be filed in the case file established for the tariff.

(3) When a pleading, which objects to a tariff or requests the suspension of a tariff, is filed, the commission shall establish a case file for the tariff and shall file the tariff and pleading in that case file. All subsequent pleadings, orders, briefs, and correspondence concerning the tariff shall be filed in the case file established for the tariff. Any pleading to suspend a tariff shall attach a copy of the tariff and include a certificate of service to confirm that the party who submitted the tariff has been served with the pleading.

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

(5) 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. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.070 Complaints

PURPOSE: This rule establishes the procedures for filing formal and informal complaints with the commission.

(1) The commission on its own motion, the commission staff through the general counsel, the office of the public counsel, or any person or public utility who feels aggrieved by a 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.

(2) Informal Complaints. 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), 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) Formal Complaints. If a complainant is not satisfied with the outcome of the informal complaint, a formal complaint may be filed. Formal 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. However, 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) 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) 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) 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) 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) 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) 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 sections 386.480, 392.210(2) or 393.140(3), RSMo, or during the course of the hearing involving the complaint.

(11) 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) 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.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. 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.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.075 Intervention

PURPOSE: This rule prescribes the procedures by which an individual or entity may intervene in a case and allows for the filing of briefs by ***amicus curiae****.*

(1) An application to intervene shall comply with these rules and 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 the proposed intervenor's interest in the case and reasons for seeking intervention, and shall state whether the proposed intervenor supports or opposes the relief sought or that the proposed intervenor is unsure of the position it will take.

(3) An association filing an application to intervene shall list all of its members.

(4) The commission may on application permit any person to intervene on a showing that—

(A) The proposed intervenor 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.

(5) Applications to intervene filed after the intervention date may be granted upon a showing of good cause.

(6) 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. 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.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.080 Pleadings, Filing, and Service

PURPOSE: This rule prescribes the content and procedure for filing pleadings before the commission and for service thereof.

(1) Every pleading or brief shall be signed by at least one (1) 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) Each pleading or brief shall state the signer's address, Missouri bar number, electronic 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) Each pleading shall include a clear and concise statement of the relief requested and specific reference to the statutory provision or other authority under which relief is requested.

(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 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) 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) Any person filing a pleading or a brief shall file with the secretary of the commission either:

(A) One (1) paper 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) 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.

(12) 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) 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) Pleadings and briefs which are not in substantial compliance with this rule, applicable statutes or commission orders shall 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 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) 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) Any party seeking expedited treatment in any case shall include in the title of the pleading the words "Motion for Expedited Treatment." 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.

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

(20) 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.

(21) Any list of issues ordered by the commission must contain one (1) or more questions presented for decision, 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 illustrate 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. Amended: Filed May 15, 1980, effective Sept. 12, 1980. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Amended: Filed Feb. 23, 1990, effective May 24, 1990. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed Sept. 11, 2001, effective April 30, 2002. Amended: Filed May 21, 2002, effective Dec. 30, 2002.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.085 Protective Orders

PURPOSE: This rule prescribes the procedures for obtaining a protective order.

(1) Any party seeking a protective order in any case, shall request such by separate pleading denominated "Motion for Protective Order." The pleading shall state with particularity why the moving party seeks protection, and what harm may occur if the information is made public. The pleading shall also include a statement that none of the information for which a claim of confidentiality is made can be found in any format in any other public document.

(2) Pleadings, testimony, or briefs shall not contain highly confidential or proprietary information unless a protective order has been issued by the commission; except that if the pleading which initiates a case or testimony accompanying a pleading initiating a case contains highly confidential or proprietary information, then the party shall file one (1) original, and eight (8) copies of the public version; and one (1) original, and eight (8) copies of the complete version containing the information to be protected, together with a Motion for Protective Order. A highly confidential or proprietary copy of the pleadings shall be served on the attorneys of record, including general counsel and the public counsel.

(3) Unless otherwise ordered, after the issuance of a protective order all pleadings or exhibits shall be filed in the form of one (1) original and eight (8) copies of the protected matter and one (1) original of the public version.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Aug. 24, 1999, effective April 30, 2000.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.090 Discovery and Prehearings

PURPOSE: This rule prescribes the procedures for depositions, written interrogatories, data requests and prehearing conferences.

(1) Discovery may be obtained by the same means and under the same conditions as in civil actions in the circuit court. Sanctions for abuse of the discovery process or failure to comply with commission orders regarding discovery shall be the same as those provided for in the rules of civil procedure.

(2) Parties may use data requests as a means for discovery. The party to whom data requests are presented shall answer the requests within twenty (20) days after receipt unless otherwise agreed by the parties to the data requests. If the recipient objects to data requests or is unable to answer within twenty (20) days, the recipient shall serve all of the objections or reasons for its inability to answer in writing upon the requesting party within ten (10) days after receipt of the data requests, unless otherwise ordered by the commission. If the recipient asserts an inability to answer the data requests within the twenty (20)-day time limit, the recipient shall include the date it will be able to answer the data requests simultaneously with its reasons

for its inability to answer. Upon agreement by the parties or for good cause shown, the time limits may be modified. As used in this rule, the term data request shall mean an informal written request for documents or information which may be transmitted directly between agents or employees of the commission, public counsel or other parties. Answers to data requests need not be under oath or be in any particular format, but shall be signed by a person who is able to attest to the truthfulness and correctness of the answers. Sanctions for failure to answer data requests may include any of those provided for abuse of the discovery process in section (1) of this rule. The responding party shall promptly notify the requesting party of any changes to the answers previously given to a data request.

(3) All prehearing conferences shall be held as directed by the commission or presiding officer, and reasonable notice of the prehearing conference time shall be given to the parties involved.

(4) Any party may petition the commission to hold a prehearing conference at any time prior to the hearing.

(5) Failure to appear at a prehearing conference without previously having secured a continuance shall constitute grounds for dismissal of the party or the party's complaint, application or other action unless good cause for the failure to appear is shown.

(6) Parties may consider procedural and substantive matters at the prehearing conference which may aid in the disposition of the issues. Matters which require a decision may be presented to the presiding officer during the conference.

(7) Facts disclosed in the course of a prehearing conference and settlement offers are privileged and, except by agreement, shall not be used against participating parties unless fully substantiated by other evidence.

(8) Except when authorized by an order of the commission, the commission will not entertain any discovery motions, until the following requirements have been satisfied:

(A) Counsel for the moving party has in good faith conferred or attempted to confer by telephone or in person with opposing counsel concerning the matter prior to the filing of the motion. Merely writing a demand letter is not sufficient. Counsel for the moving party shall certify compliance with this rule in any discovery motion; and

(B) If the issues remain unresolved after the attorneys have conferred in person or by telephone, counsel shall arrange with the commission for an immediate telephone conference with the presiding officer and opposing counsel. No written discovery motion shall be filed until this telephone conference has been held.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. 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.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.100 Subpoenas

PURPOSE: The commission may issue subpoenas for the production of witnesses and records. This rule prescribes the procedures for requesting and issuing subpoenas.

(1) A request for a subpoena or a subpoena *duces tecum* requiring a person to appear and testify at the taking of a deposition or at a hearing, or for production of documents or records shall be filed on the form provided by the commission and shall be directed to the secretary of the commission. A request for a subpoena *duces tecum* shall specify the particular document or record to be produced, and shall state the reasons why the production is believed to be material and relevant.

(2) Except for a showing of good cause, a subpoena or subpoena *duces tecum* shall not be issued fewer than twenty (20) days before a hearing.

(3) Objections to a subpoena or subpoena *duces tecum* or motions to quash a subpoena or subpoena *duces tecum* shall be made within ten (10) days from the date the subpoena or subpoena *duces tecum* is served.

(4) Subpoenas or subpoenas *duces tecum* shall be signed and issued by the secretary of the commission, a commissioner or by a law judge pursuant to statutory delegation authority. The name and address of the witness shall be inserted in the original subpoena or subpoena *duces tecum* and a copy of the return shall be filed with the secretary of the commission. Subpoenas or subpoenas *duces tecum* shall show at whose instance the subpoena or subpoena *duces tecum* is issued. Blank subpoenas shall not be issued.

(5) If there is a failure to comply with a subpoena or a subpoena *duces tecum* after objections or a motion to quash have been determined by the commission, the commission by its counsel or the party seeking enforcement may apply to a judge of the circuit court of the county in which—the hearing has been held, is being held, or is scheduled to be held, or where the witness resides or may be found—for an order enforcing the subpoena or subpoena *duces tecum*.

AUTHORITY: section 386.410, RSMo Supp. 1998. 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.*

**Original authority: 386.410, RSMo 1939 amended 1947, 1977, 1996.*

4 CSR 240-2.110 Hearings

PURPOSE: This rule prescribes the procedures for the setting, notices, and conduct of hearings.

(1) The commission shall set the time and place for all hearings and serve notice as required by law. Additional notice may be served when the commission deems it to be appropriate.

(2) The presiding officer may order continuance of a hearing date for good cause.

(A) When a continuance has been granted at the request of the applicant or complainant, the commission may dismiss the case for failure to prosecute if it has not received a request from the applicant or complainant that the matter be again continued or set for hearing within ninety (90) days from the date of the order granting the continuance.

(B) Failure to appear at a hearing without previously having secured a continuance shall constitute grounds for dismissal of the party or the party's complaint, application or other action unless good cause for the failure to appear is shown.

(3) When pending actions involve related questions of law or fact, the commission may order a joint hearing of any or all the matters at issue, and may make other orders concerning cases before it to avoid unnecessary costs or delay.

(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.

(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 and the public counsel in introducing evidence;

(B) In investigation cases, the general counsel 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.

(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. 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 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 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 shall specify the facts which allegedly constitute grounds in justification, 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. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed Sept. 6, 1985, effective Dec. 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.115 Stipulations and Agreements

PURPOSE: This rule prescribes the procedure when a nonunanimous stipulation and agreement is presented to the commission.

(1) Stipulations and Agreements.

(A) The parties may at any time file a stipulation and agreement as a proposed resolution of all or any part of a contested case. A stipulation and agreement shall be filed as a pleading.

(B) The commission may resolve all or any part of a contested case on the basis of a stipulation and agreement.

(2) Nonunanimous Stipulations and Agreements.

(A) A nonunanimous stipulation and agreement is any stipulation and agreement which is entered into by fewer than all of the parties.

(B) Each party shall have seven (7) days from the filing of a nonunanimous stipulation and agreement to file an objection to the nonunanimous stipulation and agreement. Failure to file a timely objection shall constitute a full waiver of that party's right to a hearing.

(C) If no party timely objects to a nonunanimous stipulation and agreement, the commission may treat the nonunanimous stipulation and agreement as a unanimous stipulation and agreement.

(D) A nonunanimous stipulation and agreement to which a timely objection has been filed shall be considered to be merely a position of the signatory parties to the stipulated position, except that no party shall be bound by it. All issues shall remain for determination after hearing.

(E) A party may indicate that it does not oppose all or part of a nonunanimous stipulation and agreement.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed June 9, 1987, effective Sept. 15, 1987. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed March 26, 2002, effective Nov. 30, 2002.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.116 Dismissal

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

(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 the adverse parties.

(2) Cases may be dismissed for lack of prosecution if no action has occurred in the case for ninety (90) days and no party has filed a pleading requesting a continuance beyond that time.

(3) A party may be dismissed from a case for failure to comply with any order issued by the commission, including failure to appear at any scheduled proceeding such as a public hearing, prehearing conference, hearing, or mediation session.

(4) A case may be dismissed for good cause found by the commission after a minimum of ten (10) days notice to all parties involved.

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

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.117 Summary Disposition

PURPOSE: This rule provides for disposition of a contested case by disposition in the nature of summary judgment or judgment on the pleadings.

(1) Summary Determination.

(A) Except in a case seeking a rate increase or which is subject to an operation of law date, any party may by motion, with or without supporting affidavits, seek disposition of all or any part of a case by summary determination at any time after the filing of a responsive pleading, if there is a respondent, or at any time after the close of the intervention period. However, a motion for summary determination shall not be filed less than

sixty (60) days prior to the hearing except by leave of the commission.

(B) Motions for summary determination shall state with particularity in separately numbered paragraphs each material fact as to which the movant claims there is no genuine issue, with specific references to the pleadings, testimony, discovery, or affidavits that demonstrate the lack of a genuine issue as to such facts. Each motion for summary determination shall have attached thereto a separate legal memorandum explaining why summary determination should be granted and testimony, discovery or affidavits not previously filed that are relied on in the motion. The movant shall serve the motion for summary determination upon all other parties not later than the date upon which the motion is filed with the commission.

(C) Not more than thirty (30) days after a motion for summary determination is served, any party may file and serve on all parties a response in opposition to the motion for summary determination. Attached thereto shall be any testimony, discovery or affidavits not previously filed that are relied on in the response. The response shall admit or deny each of movant's factual statements in numbered paragraphs corresponding to the numbered paragraphs in the motion for summary determination, shall state the reason for each denial, shall set out each additional material fact that remains in dispute, and shall support each factual assertion with specific references to the pleadings, testimony, discovery, or affidavits. The response may also have attached thereto a legal memorandum explaining why summary determination should not be granted.

(D) For good cause shown, the commission may continue the motion for summary determination for a reasonable time to allow an opposing party to conduct such discovery as is necessary to permit a response to the motion for summary determination.

(E) The commission may grant the motion for summary determination if the pleadings, testimony, discovery, affidavits, and memoranda on file show that there is no genuine issue as to any material fact, that any party is entitled to relief as a matter of law as to all or any part of the case, and the commission determines that it is in the public interest. An order granting summary determination shall include findings of fact and conclusions of law.

(F) If the commission grants a motion for summary determination, but does not dispose thereby of the entire case, it shall hold an evidentiary hearing to resolve the remaining issues. Those facts found in the order granting partial summary determination shall be established for purposes of the hearing.

(G) The commission may hear oral argument on a motion for summary determination.

(2) Determination on the Pleadings—Except in a case seeking a rate increase or which is subject to an operation of law date, the commission may, on its own motion or on the motion of any party, dispose of all or any part of a case on the pleadings whenever such disposition is not otherwise contrary to law or contrary to the public interest.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed March 26, 2002, effective Nov. 30, 2002.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.120 Presiding Officers

PURPOSE: This rule states the duties of presiding officers and the procedure for disqualifying them.

(1) A presiding officer shall have the duty to conduct full, fair and impartial hearings, to take appropriate action to avoid unnecessary delay in the disposition of cases, to maintain order, and shall possess all powers necessary to that end. The presiding officer may take action as may be necessary and appropriate to the discharge of duties, consistent with the statutory authority or other authorities under which the commission functions and with the rules and policies of the commission.

(2) Whenever any party shall deem the presiding officer for any reason to be disqualified to preside, or to continue to preside, in a particular case, the party may file with the secretary of the commission a motion to disqualify with affidavits setting forth the grounds alleged for disqualification. A copy of the motion shall be served by the commission on the presiding officer whose removal is sought and the presiding officer shall have seven (7) days from the date of service within which to reply.

AUTHORITY: section 386.410, RSMo Supp. 1998. 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.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

Union Electric Co. v. PSC, 591 SW2d 134 (Mo. App. 1979). Prohibition will be under common law rule to disqualify a PSC commissioner who was a party in a case now pending before her.

4 CSR 240-2.125 Procedures for Alternative Dispute Resolution

PURPOSE: This rule establishes procedures which will allow parties to utilize alternative dispute resolution methods in order to resolve issues or the entire matter in dispute.

(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;
3. If there is no prefiled testimony, a description of the issues of each party; and
4. A date by which a settlement will be reached or settlement negotiations under this procedure will end.

(B) If the commission grants the motion for a settlement officer, it shall issue an order scheduling a settlement conference and shall appoint a presiding officer to participate in settlement negotiations.

(C) The negotiations and statements of the parties or attorneys made at the settlement conference shall be off the record and shall not be made a part of the official case.

(D) If a settlement is not reached before the date specified by the parties in their motion, the procedure shall end unless the parties all agree to an extension and the procedure is extended by order of the commission.

(2) Mediation.

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

(C) The written application for mediation services should include the case number, the names of each party and a brief explanation of the case.

(3) 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) 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. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.130 Evidence

PURPOSE: This rule prescribes the rules of evidence in any hearing before the commission.

(1) In any hearing, these rules supplement section 536.070, RSMo.

(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.

(3) The presiding officer shall rule on the admissibility of all evidence. Evidence to which an objection is sustained, at the request of the party seeking to introduce the same or at the instance of the commission, nevertheless may be heard and preserved in the record, together with any cross-examination with respect to the evidence and any rebuttal of the evidence, unless it is wholly irrelevant, repetitious, privileged or unduly long. When objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly. Formal exceptions to rulings shall be unnecessary and need not be taken.

(4) In extraordinary circumstances where prompt decision by the commission is necessary to promote substantial justice, the presiding officer may refer a matter to the commission for determination during the progress of the hearing.

(5) The rules of privilege are effective to the same extent that they are in civil actions.

(6) Prepared testimony may be filed electronically. If prepared testimony is not filed electronically it shall be typed or printed, in black type on white paper eight and one-half inches by eleven inches (8 1/2" × 11"); it shall be double-spaced and pages numbered consecutively at the bottom right-hand corner or bottom center beginning with the first page as page 1; it shall be filed unfolded and stapled together at the top left-hand margin or bound at an edge in booklet form; and 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. 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. 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 shall be filed on line-numbered pages. Testimony that addresses more than one (1) issue shall contain a table of contents. Electronically filed prepared testimony shall be formatted and labeled in the same manner as paper filings.

(7) For the purpose of filing prepared testimony, direct, rebuttal, and surrebuttal testimony are defined as follows:

(A) Direct testimony shall include all testimony and exhibits asserting and explaining that party's entire case-in-chief;

(B) Where all parties file direct testimony, rebuttal testimony shall include all testimony which is responsive to the testimony and exhibits contained in any other party's direct case. A party need not file direct testimony to be able to file rebuttal testimony;

(C) Where only the moving party files direct testimony, rebuttal testimony shall include all testimony which explains why a party rejects, disagrees or proposes an alternative to the moving party's direct case; and

(D) Surrebuttal testimony shall be limited to material which is responsive to matters raised in another party's rebuttal testimony.

(8) 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) 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 in the stipulation.

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

(11) 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.

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

(13) 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) 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.

(15) 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.

(16) 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. Amended: Filed Nov. 6, 1981, effective Feb. 15, 1982. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Amended: Filed Feb. 23, 1990, effective May 24, 1990. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed Sept. 11, 2001, effective April 30, 2002.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

***State ex rel. Utility Consumers Council v. Public Service Commission**, 562 SW2d 688 (Mo. App. 1978). At a hearing on the issuance of a certificate of convenience and necessity, the commission denied appellant consumers council opportunity to cross-examine electric utility's witnesses on certain testimony regarding costs. The proprietary nature of the cost information involved does not protect it from cross-examination by consumers council, and denial of right to such cross-examination was improper.*

4 CSR 240-2.135 Confidential Information

PURPOSE: This rule prescribes the procedures for handling confidential information in cases before the commission.

(1) The commission recognizes two (2) levels of protection for information that should not be made public.

(A) Proprietary information is information concerning trade secrets, as well as confidential or private technical, financial, and business information.

(B) Highly confidential information is information concerning:

1. Material or documents that contain information relating directly to specific customers;

2. Employee-sensitive personnel information;

3. Marketing analysis or other market-specific information relating to services offered in competition with others;

4. Marketing analysis or other market-specific information relating to goods or services purchased or acquired for use by a company in providing services to customers;

5. Reports, work papers, or other documentation related to work produced by internal or external auditors or consultants;

6. Strategies employed, to be employed, or under consideration in contract negotiations; and

7. Information relating to the security of a company's facilities.

(2) 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) 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) 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) 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) of this rule.

(E) Subject to subsection (4)(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) 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) 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 certify 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) 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) and (4).

(8) 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) 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) 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 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) 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) 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) 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) All live testimony, including cross-examination and oral argument, that 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) 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) 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) 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) 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) The provisions of sections (3), (4), (6), (7), and (18) 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) 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) and (18). 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) 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) 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.*

**Original authority: 386.080, RSMo 1939 and 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.140 Briefs and Oral Arguments

PURPOSE: This rule sets forth the procedures for filing briefs and presenting oral arguments in any hearing.

(1) The commission or presiding officer shall determine whether the parties may file briefs or present oral argument, or both, in any case.

(2) Unless otherwise ordered by the commission or presiding officer, when briefs are to be filed in any case, the parties shall have twenty (20) days after the date on which the complete transcript of the hearing is filed to file their initial briefs. 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) 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.

AUTHORITY: section 386.410, RSMo Supp. 1998. 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.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.150 Decisions of the Commission

PURPOSE: This rule prescribes the method of issuing commission orders and the effective date of such orders.

(1) The record of a case shall stand submitted for consideration by the commission after the recording of all evidence or, if applicable, after the filing of briefs or the presentation of oral argument.

(2) The commission's orders shall be in writing and shall be issued as soon as practicable after the record has been submitted for consideration.

(3) Every order of the commission shall be served by mailing a certified copy, with postage prepaid, to all parties of record.

(4) The commission may, at its discretion, issue a preliminary order and allow parties to provide responses to the preliminary order. The commission may then issue its order after reviewing the responses of the parties.

(5) As technology permits, and where the parties have provided their electronic mail address, the commission will attempt to issue an electronic copy of each order.

AUTHORITY: section 386.410, RSMo Supp. 1998. 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.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

Am. Petrol. Exchange v. Public Service Commission, 172 SW2d 952, transferred 238 Mo. App. 92, 176 SW2d 533 (Mo. 1943). Commission has no power to declare or enforce any principle of law or equity. Commission cannot determine damages, award pecuniary relief or abate a nuisance.

4 CSR 240-2.160 Rehearings and Reconsideration

PURPOSE: This rule prescribes the procedure for requesting a rehearing of a final order or a reconsideration of a procedural or interlocutory order of the commission and the disposition of that request.

(1) Applications for rehearing may be filed pursuant to statute.

(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.

(3) The filing of a motion for reconsideration shall not excuse any party from complying with any order of the commission, nor operate in any manner to stay or postpone the enforcement of any order, unless otherwise ordered by the commission.

(4) The commission may correct its own orders *nunc pro tunc*.

AUTHORITY: section 386.410, RSMo Supp. 1998. 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.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.170 Forms
(Rescinded April 30, 2000)

AUTHORITY: section 386.410, RSMo 1994. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded: Filed Aug. 24, 1999, effective April 30, 2000.

4 CSR 240-2.180 Rulemaking

PURPOSE: This rule provides a procedure for rulemaking, and petitioning for rulemaking, pursuant to Chapter 536, RSMo.

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

(3) 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. The name, street address, and mailing address of the petitioner;

2. One (1) of the following:

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

B. The full text of the rule sought to be amended, including the suggested amendments, if amendment of an existing rule is sought;

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. The full text of the rule sought to be rescinded, if rescission of an existing rule is sought;

3. 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. Citations of legal authority which authorize, support, or require the rulemaking action requested by the petition;

5. 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. A verification of the petition by the petitioner by oath; and

(B) 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) 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.

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

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

(7) 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) Persons testifying 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;

(D) 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) Persons testifying may offer exhibits in support of their positions.

(8) 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 Chapter 536, RSMo and 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, 392.210, 392.240, 392.280, 392.290, 393.110, 393.140(3), (4), (6), (9), (11) and (12), 393.160, 393.220, 393.240, 393.290 and 394.160, RSMo 1994 and 386.250, 386.310, 386.410, 392.200, 392.220 and 392.330, RSMo Supp. 1998. 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.*

**Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 386.310, RSMo 1939, amended 1979, 1989, 1996; 386.410, RSMo 1939, amended 1947, 1977, 1996; 392.200, RSMo 1939, amended 1987, 1988, 1996; 392.210, RSMo 1939, amended 1984, 1987; 392.220, RSMo 1939, amended 1987, 1988, 1991, 1993, 1996; 392.240, RSMo 1939, amended 1987; 392.280, RSMo 1939, amended 1987, 1993; 392.290, RSMo 1939, amended 1986, 1987; 392.330, RSMo 1939, amended 1980, 1987, 1995; 393.110, RSMo 1939, amended 1967; 393.140, RSMo 1939, amended 1949, 1967; 393.160, RSMo 1939, amended 1949, 1984; 393.220, RSMo 1939, amended 1967, 1980; 393.240, RSMo 1939, amended 1967; 393.290, RSMo 1939, amended 1967; 394.160, RSMo 1939, amended 1979.*

***State ex rel. Southwestern Bell Telephone Co. v. PSC**, 592 SW2d 184 (Mo. App. 1979). A declaratory judgment action under section 536.050, RSMo is not available to challenge the validity of a rule of the Public Service Commission, since a specific, exclusive statutory scheme for review of commission actions is contained in section 386.510, RSMo.*

***Jefferson Lines, Inc. v. Missouri Public Service Commission**, 581 SW2d 124 (Mo. App. 1979). In 4 CSR 240-2.180 the commission provided by rule a method for attack on any of its own rules. A record could be made and if the commission ruled adversely to the petition, an appeal would lie under section 386.510, RSMo. Also, under section 536.031.5, RSMo this court takes judicial notice of the rules printed in the **Code of State Regulations**.*

4 CSR 240-2.190 Hearings Under Rulemaking
(Rescinded November 30, 1995)

AUTHORITY: section 386.410, RSMo 1986. Original rule filed Nov. 7, 1984, effective June 15, 1985. Rescinded: Filed March 10, 1995, effective Nov. 30, 1995.

4 CSR 240-2.200 Small Company Rate Increase Procedure
(Rescinded April 30, 2003)

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Rescinded: Filed Aug. 16, 2002, effective April 30, 2003.

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Supreme Court Rules

		Section/Rule:	4-5.5
Subject:	Rule 4 - Rules Governing the Missouri Bar and the Judiciary - Rules of Professional Conduct	Publication / Adopted Date:	December 3, 1986
Topic:	Law Firms and Associations - Unauthorized Practice of Law; Multijurisdictional Practice of Law	Revised / Effective Date:	July 1, 2007

RULE 4-5.5: UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction or assist another in doing so.

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

(1) except as authorized by this Rule 4 or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

(c) A lawyer admitted and authorized to practice law in another United States jurisdiction and not disbarred or suspended from practice in any jurisdiction may provide legal services on a temporary basis in this jurisdiction that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction if the lawyer or a person the lawyer is assisting is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted and authorized to practice law and are not services for which the forum requires pro hac vice admission;

(4) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission; or

(5) are not within Rule 4-5.5(c)(2), (c)(3), or (c)(4) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted and authorized to practice law.

(d) A lawyer admitted in another United States jurisdiction and not disbarred or suspended from practice in any jurisdiction may establish an office or other systematic and continuous presence in this jurisdiction for the practice of law and provide legal services in this jurisdiction that are provided to the lawyer's employer or its organizational affiliates if the lawyer has obtained a limited license pursuant to Rule 8.105 or a general license pursuant to other provisions of Rule 8.

(e) A lawyer shall not practice law in Missouri if the lawyer is subject to Rule 15 and, because of failure to comply with Rule 15, The Missouri Bar has referred the lawyer's name to the chief disciplinary counsel or the commission on retirement, removal and discipline.

COMMENT

[1] A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis or may be authorized by court rule or order or by law to practice for a limited purpose or on a restricted basis. Rule 4-5.5(a) applies to unauthorized practice of law by a lawyer, whether through the lawyer's direct action or by the lawyer assisting another person.

[2] The definition of "the practice of law" is established by law and varies from one jurisdiction to another. Whatever the definition, limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons. This Rule 4-5.5 does not prohibit a lawyer from employing the services of paraprofessionals and delegating functions to them, so long as the lawyer supervises the delegated work and retains responsibility for their work. See Rule 4-5.3.

[3] A lawyer may provide professional advice and instruction to nonlawyers whose employment requires knowledge of the law; for example, claims adjusters, employees of financial or commercial institutions, social workers, accountants, and persons employed in government agencies. In addition, a lawyer may counsel nonlawyers who wish to proceed pro se.

[4] Other than as authorized by law or this Rule 4-5.5, a lawyer who is not admitted to practice generally in this jurisdiction violates Rule 4-5.5(b) if the lawyer establishes an office or other systematic and continuous presence in this jurisdiction for the practice of law. Presence may be systematic and continuous even if the lawyer is not physically present here. Such a lawyer must not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. See also Rules 4-7.1(a) and 4-7.5(b). Federal law, including but not limited to international treaties, may require that a lawyer be permitted to practice in this jurisdiction. Federal law that admits a lawyer to appear in a federal court or other tribunal does not authorize a lawyer to establish an office or other systematic and continuous presence to engage in other aspects of the practice of law in this jurisdiction. See *In re: Page*, 257 S.W. 2d 679 (Mo. banc 1953).

[5] There are occasions in which a lawyer admitted to practice in another United States jurisdiction and not disbarred or suspended from practice in any jurisdiction may provide legal services on a temporary basis in this jurisdiction under circumstances that do not create an unreasonable risk to the interests of their clients,

the public, or the courts. Rule 4-5.5(c) identifies four such circumstances. The fact that conduct is not so identified does not imply that the conduct is or is not authorized. This Rule 4-5.5 does not authorize a lawyer to establish an office or other systematic and continuous presence in this jurisdiction without being admitted to practice here under any provision of Rule 8.

[6] There is no single test to determine whether a lawyer's services are provided on a "temporary basis" in this jurisdiction and, therefore, may be permissible under Rule 4-5.5(c). Services may be "temporary" even though the lawyer provides services in this jurisdiction on a recurring basis or for an extended period of time, as when the lawyer is representing a client in a single lengthy negotiation or litigation.

[7] Rule 4-5.5(c) and (d) apply to lawyers who are admitted to practice law in any United States jurisdiction, which includes the District of Columbia and any state, territory or commonwealth of the United States. The phrase "admitted and authorized to practice law" in Rule 4-5.5(c) requires that the lawyer be authorized to practice in a jurisdiction in which the lawyer is admitted and excludes a lawyer who while technically admitted is not authorized to practice, because, for example, the lawyer is on inactive status.

[8] Rule 4-5.5(c)(1) recognizes that the interests of clients and the public are protected if a lawyer admitted only in another jurisdiction associates with a lawyer licensed to practice in this jurisdiction. For Rule 4-5.5 (c)(1) to apply, however, the lawyer admitted to practice in this jurisdiction must actively participate in and share responsibility for the representation of the client.

[9] Lawyers not admitted to practice generally in a jurisdiction may be authorized by law or order of a tribunal or an administrative agency to appear before the tribunal or agency. This authority may be granted pursuant to formal rules governing admission pro hac vice. Under Rule 4-5.5(c)(2), a lawyer does not violate this Rule 4-5.5 when the lawyer appears before a tribunal or agency pursuant to such authority. To the extent that a court rule or other law of this jurisdiction requires a lawyer who is not admitted to practice in this jurisdiction to obtain admission pro hac vice before appearing before a tribunal or administrative agency, this Rule 4-5.5 requires the lawyer to obtain that authority.

[10] Rule 4-5.5(c)(2) also provides that a lawyer rendering services in this jurisdiction on a temporary basis does not violate this Rule 4-5.5 when the lawyer engages in conduct in anticipation of a proceeding or hearing in a jurisdiction in which the lawyer is authorized to practice law or in which the lawyer reasonably expects to be admitted pro hac vice. Examples of such conduct include meetings with the client, interviews of potential witnesses, and the review of documents. Similarly, a lawyer admitted only in another jurisdiction may engage in conduct temporarily in this jurisdiction in connection with pending litigation in another jurisdiction in which the lawyer is or reasonably expects to be authorized to appear, including taking depositions in this jurisdiction.

[11] When a lawyer has been or reasonably expects to be admitted to appear before a court or administrative agency, Rule 4-5.5(c)(2) also permits conduct by lawyers who are associated with that lawyer in the matter, but who do not expect to appear before the court or administrative agency. For example, subordinate lawyers may conduct research, review documents, and attend meetings with witnesses in support of the lawyer responsible for the litigation.

[12] Rule 4-5.5(c)(3) permits a lawyer admitted to practice law in another jurisdiction to perform services on a temporary basis in this jurisdiction if those services are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction and if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice. The lawyer, however, must obtain admission pro hac vice in the

case of a court-annexed arbitration or mediation or otherwise if court rules or law so require.

[13] Rule 4-5.5(c)(4) permits a lawyer who is admitted and authorized to practice law in another jurisdiction to perform services on a temporary basis in this jurisdiction if those services are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission. Rule 4-5.5(c)(4) applies to in-house corporate lawyers, government lawyers, and others who are employed to render legal services to the employer. Rule 4-5.5(c)(4) does not authorize the provision of personal legal services on a temporary basis to the employer's officers or employees. Lawyers who wish to establish an office or other systematic and continuous presence in this jurisdiction to provide legal services to the lawyer's employer or its organizational affiliates must be admitted to practice law in this jurisdiction pursuant to Rule 8.105 or other relevant provisions of Rule 8. See Rule 4-5.5(d).

[14] Rule 4-5.5(c)(5) permits a lawyer admitted in another jurisdiction to provide certain legal services in this jurisdiction on a temporary basis if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted but are not within Rule 4-5.5(c)(2) or (c)(3). These services include both legal services and services that nonlawyers may perform but that are considered the practice of law when performed by lawyers.

[15] Rule 4-5.5(c)(3) and (c)(5) require that the services arise out of or be reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted. A variety of factors evidence such a relationship. The lawyer's client may have been previously represented by the lawyer or may be resident in or have substantial contacts with the jurisdiction in which the lawyer is admitted. The matter, although involving other jurisdictions, may have a significant connection with that jurisdiction. In other cases, significant aspects of the lawyer's work might be conducted in that jurisdiction or a significant aspect of the matter may involve the law of that jurisdiction. The necessary relationship might arise when the client's activities or the legal issues involve multiple jurisdictions, such as when the officers of a multinational corporation survey potential business sites and seek the services of their lawyer in assessing the relative merits of each. In addition, the services may draw on the lawyer's recognized expertise developed through the regular practice of law on behalf of clients in matters involving a particular body of federal, nationally-uniform, foreign, or international law.

[16] Rule 4-5.5(d) applies to a lawyer employed exclusively for a corporation, its subsidiaries or affiliates; an association; a business; or a governmental entity if the employer's lawful business consists of activities other than the practice of law or the provision of legal services. Rule 4-5.5(d) does not authorize the provision of personal legal services to the employer's officers or employees. Rule 4-5.5(d) does not address federal practice; federal practice is addressed in Rule 4-5.5(b)(1) and paragraph 4 of this Comment.

[17] A lawyer who practices law in this jurisdiction pursuant to Rule 4-5.5(c) or (d) or otherwise is subject to the disciplinary authority of this jurisdiction. See Rule 4-8.5(a).

[18] In some circumstances, a lawyer who practices law in this jurisdiction pursuant to Rule 4-5.5(c) may have to inform the client that the lawyer is not licensed to practice law in this jurisdiction. For example, that may be required when the representation occurs primarily in this jurisdiction and requires knowledge of the law of this jurisdiction. See Rule 4-1.4(b).

[19] Rule 4-5.5(c) does not authorize communications advertising legal services to prospective clients in this jurisdiction by lawyers who are admitted to practice in other jurisdictions. Whether and how lawyers may communicate the availability of their services to prospective clients in this jurisdiction is governed by Rules 4-7.1 to 4-7.5.

(Amended December 3, 1986, effective January 1, 1987. Amended April 21, 1988, effective January 1, 1989. Amended November 20, 1990, effective July 1,1991. Amended March 9, 2005, effective January 1, 2006.)

Your Missouri Courts
THE JUDICIAL BRANCH OF STATE GOVERNMENT

Clerk Handbooks

Supreme Court Rules

Subject:	Rule 6 - Rules Governing the Missouri Bar and the Judiciary - Fees to Practice Law	Section/Rule:	6.01
		Publication / Adopted Date:	May 14, 1999
Topic:	Annual Enrollment Fee and Statement - Exemptions - Penalties - Pro Hac Vice Fee	Revised / Effective Date:	January 1, 2009

6.01. Annual Enrollment Fee and Statement - Exemptions - Penalties - Pro Hac Vice Fee.

(a) Fee Due. Each person licensed to practice law in this state shall pay to the clerk of this Court on or before January 31st of each year an enrollment fee, which shall be the total of the sums approved by this Court as the bar fee and the advisory committee fee. The fee is due and shall be paid regardless of any assessment, notice or demand by the clerk of this Court. Payment of the annual enrollment fee on or before January 31st of each year under this Rule 6.01 means either receipt thereof by the clerk on or before January 31st or the placing of the fee in the United States mail addressed to the clerk of this Court on or before January 31st. If January 31st is a Saturday, Sunday, or a legal holiday, payment of the enrollment fee must be made by the end of the next day that is neither Saturday, Sunday, nor a legal holiday.

(b) Information to be Furnished to the Clerk of this Court. At the time of payment of the enrollment fee, a lawyer shall furnish to the clerk of this Court an annual enrollment statement, on a form to be prescribed by the clerk, that shall provide:

1. The lawyer's name;

2. The lawyer's current mailing address and e-mail address;

3. The lawyer's attorney enrollment number, as assigned by the clerk upon the lawyer's admission to the bar;

4. The county, or city of St. Louis, if applicable, and, if other than Missouri, the state in which the lawyer maintains his or her residence; and

5. The voting place designated by the lawyer for purposes of voting for members of The Missouri Bar board of governors.

In addition to the information on the annual enrollment statement, the lawyer shall notify the clerk of this Court of every change in the lawyer's current mailing or e-mail address.

(c) Initial Fee for New Members. A person admitted to the bar for the first time in this state, except a person admitted under Rule 8.10, Rule 8.105, Rule 9.09, or Rule 13.06, shall not be required to pay an enrollment fee until the 31st of January next following admission to the bar.

A person admitted to the bar of this state under Rule 8.10, Rule 8.105, Rule 9.09, or Rule 13.06 shall pay a proportional enrollment fee when first admitted. The proportional fee shall be calculated on the basis of the enrollment fee for the category selected by the person in effect on the date the person is admitted multiplied by the number of full months remaining in the calendar year the person is admitted divided by twelve.

(d) Persons Exempt from Fee. A person who is in good standing as a member of The Missouri Bar and:

(1) Is a retired judge, or

(2) Is a retired commissioner of a Missouri court of record, or

(3) Has been licensed to practice in this state for fifty years or more, or

(3) Has reached the age of seventy-five years

is excused from the payment of enrollment fees becoming due and payable thereafter.

(e) Receipt from Clerk. The clerk of this Court shall give each person paying the enrollment fee or excused from paying the enrollment fee a receipt therefor, which shall be evidence of the lawyer's good standing.

(f) Automatic Suspension. As provided in Rule 6.05, no lawyer shall be permitted to practice law or undertake or attempt to do a law business after the time the lawyer's name is stricken from the roll of attorneys pursuant to Rule 6.02. In default of timely paying the annual enrollment fee, the lawyer shall be subject to automatic suspension. Any lawyer thus suspended for such nonpayment shall be retroactively reinstated as a matter of course upon paying the enrollment fee prescribed for each calendar year of the suspension plus the accumulated penalty. If any lawyer remains delinquent for three consecutive years in the payment of any annual enrollment fee, the lawyer shall be required to apply to this Court under Rule 5.28 for reinstatement as a member in good standing.

(g) Additional Penalty for Nonpayment. A penalty of $50.00 shall be paid if a member is delinquent in the payment of fees. In addition, a penalty of $5.00 per month shall be paid for each month or fraction thereof during which a member is delinquent in payment of fees beginning with the month of March next following January 31st.

(h) Waiver of Fees and Penalties by Advisory Committee. Penalties and past due enrollment fees may be waived by the advisory committee upon proof satisfactory to it that any delinquency was caused by reason of physical or mental incapacity to engage in the practice of law. The advisory committee shall notify the chief disciplinary counsel of each such waiver granted and the reason therefor.

(i) Voting for Board of Governors. For purposes of Rule 6.01(b)(5), the voting place designated shall be the place where the lawyer is employed or maintains his or her principal office for the full-time practice of law. The voting place designated at the time of the payment shall be one of the following:

(1) The city of St. Louis,

(2) The Kansas City portion of Jackson County,

(3) The portion of Jackson County that does not include Kansas City, or

(4) Any county other than Jackson County.

If the lawyer is a resident of Missouri but is not employed or engaged in the practice of law in Missouri, the voting place shall be the place in which the lawyer resides. The voting place designated shall be deemed the place of enrollment for the purposes of Rule 7.03.

A lawyer in category (3) under Rule 6.01(j) is ineligible to vote for election of members of The Missouri Bar board of governors. A lawyer in category (3) may elect to pay the same enrollment fee assessed for lawyers in category (1) or, if eligible, the fee assessed for category (2) and become eligible to vote for the election of members of the board of governors. In the event of such election, the lawyer shall designate, for voting purposes, the voting place where the lawyer either last resided or maintained an office for the full-time practice of law or was employed.

(j) Setting Bar Fee. The board of governors of The Missouri Bar is hereby authorized to fix the amount of the bar fee to be paid by each person licensed to practice law in this state. Such fee may be fixed at a different amount for each of the following categories of persons:

(1) All persons licensed and not included in category (2) or (3);

(2) Persons licensed less than three years, except those admitted to the bar without examination;

(3) Persons licensed but who neither reside, nor practice, nor are employed in this state;

provided, however, that any person included in both categories (2) and (3) need pay only the lesser of the two amounts applicable.

A certified copy of a resolution fixing the bar fee shall be filed with this Court on or before October 15th of the year prior to the effective date of any change in amount of the bar fee for any category of persons. The fee shall be effective January 1st next thereafter, unless this Court shall by order on or before November 1st following the date the resolution is filed disapprove the same in whole or in part.

The board shall file with its resolution a certified copy of:

> (1) The financial statement of The Missouri Bar for the immediately preceding calendar year and an interim report for the current year to a date not more than forty-five days prior to filing of the resolution, and
>
> (2) Its proposed budget for the next two calendar years thereafter.

The board shall inform members of the bar of its intent to change the bar fee and the amount thereof as well as the amount of the advisory committee fee fixed by this Court for the next ensuing year. Members shall be informed by letter or by publication of notice thereof in any publication of The Missouri Bar circulated to its members fifteen days next before the adoption of such resolution. The letter or notice shall designate therein the time and place of the board meeting where such resolution will be considered.

The board shall provide for a reasonable time during the meeting in which a resolution to change the amount of the bar fee is being considered for expression of views of members of The Missouri Bar concerning the same.

(k) Setting Advisory Committee Fee. This Court shall fix the amount of the advisory committee fee by order. The fee may be fixed at a different amount for each of the categories of persons described above. The fee shall be fixed not later than August 31st of each year, and the board of governors of The Missouri Bar shall be informed thereof not later than September 5th next thereafter. The fee shall be deposited in the advisory committee fund.

If the chief disciplinary counsel deems it necessary that the amount of the advisory committee fee for the next ensuing year be changed, the chief disciplinary counsel shall so advise this Court not later than July 15th prior thereto and the amount recommended. The recommendations of the chief disciplinary counsel shall be accompanied by:

(1) A financial statement of the advisory committee fund for the immediately preceding calendar year and an interim report for the calendar year to a date not more than 45 days prior to filing of the recommendation, and

(2) The proposed budget of the chief disciplinary counsel for the next two calendar years thereafter.

(l) Current Fee. The amounts fixed by this Court for the bar fee and the advisory committee fee shall be as follows for each of the categories of persons described above:

	Bar Fee	Advisory Committee Fee	Total Annual Enrollment Fee
Category (1)	$204.00	$101.00	$305.00
Category (2)	149.00	101.00	250.00
Category (3)	119.00	101.00	220.00

The total amount of the bar fee and the advisory committee fee for each category shall be the enrollment fee for that category for the year 2003 and the subsequent years unless and until changed as herein-above provided.

(m) Pro Hac Vice Fee. An attorney seeking to appear pursuant to Rule 9.03 shall pay a fee of $100 for each case in each court or administrative tribunal in which the attorney seeks to appear. The fee shall be paid to the clerk of this Court.

The clerk shall issue a receipt indicating the case and court in which the attorney seeks to appear. The fee will not be refunded if the court refuses to permit the attorney to appear.

(Adopted May 14, 1999, eff. Jan. 1, 2000. Amended Aug. 28, 2001, eff. Sept. 1, 2001. Amended Sept 24, 2002, eff Nov. 1, 2002. Amended May 29, 2002, eff. Dec. 1, 2002. Amended Nov. 26, 2002, eff. Dec. 1, 2002, and Jan. 1, 2003. Amended March 30, 2004, eff. July 1, 2004. Amended June 21, 2005, eff. July 1, 2005. Amended Dec. 11, 2008, eff. Jan. 1, 2009)

Your Missouri Courts
THE JUDICIAL BRANCH OF STATE GOVERNMENT

Clerk Handbooks

Supreme Court Rules

Subject:	Rule 9 - Rules Governing the Missouri Bar and the Judiciary - Practice by Nonresident Attorneys	Section/Rule:	9.01
		Publication / Adopted Date:	February 1, 1972
Topic:	Unauthorized Practice by Foreign Attorneys	Revised / Effective Date:	January 1, 2009

9.01 UNAUTHORIZED PRACTICE BY FOREIGN ATTORNEYS

No nonresident attorney shall practice law or do a law business in this state except as provided in Rules 4-5.5, 9.02, 9.03 and 9.04.

(Adopted Feb. 1, 1972, eff. Jan. 1, 2009.)

Clerk Handbooks

Supreme Court Rules

Subject:	Rule 9 - Rules Governing the Missouri Bar and the Judiciary - Practice by Nonresident Attorneys	Section/Rule:	9.02
		Publication / Adopted Date:	February 1, 1972
Topic:	Nonresident Members of the Missouri Bar	Revised / Effective Date:	August 1, 1980

9.02. Nonresident Members of the Missouri Bar

A nonresident attorney who is a member of The Missouri Bar and maintains an office in Missouri for the practice of law may practice law and do a law business as in the case of a resident attorney.

A nonresident attorney who is a member of The Missouri Bar, but who does not maintain an office in Missouri, may practice law and do a law business in Missouri as in the case of a resident attorney, provided the State in which the nonresident lawyer resides accords a similar privilege to licensed Missouri lawyers residing in Missouri who practice law in such other State.

(Adopted Feb. 1, 1972, eff. Sept. 1, 1972. Amended June 27, 1980, eff. Aug. 1, 1980.)

Clerk Handbooks

Supreme Court Rules

Subject:	Rule 9 - Rules Governing the Missouri Bar and the Judiciary - Practice by Nonresident Attorneys	Section/Rule:	9.03
		Publication / Adopted Date:	February 1, 1972
Topic:	Visiting Attorney Appearing in a Particular Case	Revised / Effective Date:	July 1, 2004

9.03. Visiting Attorney Appearing in a Particular Case

Any attorney, whether or not a member of The Missouri Bar, not authorized to practice under Rule 9.02, but who is a member in good standing of the bar of any court of record and not under suspension or disbarment by the highest court of any state, may be permitted to appear and participate in a particular case in any court or administrative tribunal of this state under the following conditions:

The visiting attorney shall file with his or her initial pleading the receipt for the fee required by Rule 6.01 and a statement:

(**a**) Identifying every court of which he or she is a member of the bar;

(**b**) Certifying that neither the attorney nor any member of his or her firm is under suspension or disbarment by any such court; and

(**c**) Designating some member of The Missouri Bar having an office within the State of Missouri as associate counsel.

The designated attorney shall enter an appearance as an attorney of record.

The visiting attorney by her or his appearance agrees to comply with the Rules of Professional Conduct as set forth in Rule 4 and become subject to discipline by the courts of this state.

(Adopted Feb. 1, 1972, eff. Sept. 1, 1972. Amended June 27, 1980, eff. Aug. 1, 1980; April 21, 1988, eff. Jan. 1, 1989. Amended Nov. 26, 2002, eff. Jan. 1, 2003. Amended March 30, 2004, eff. July 1, 2004.)