

MATT BLUNT
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

*Administrative Rules Stamp

RECEIVED

MAR 23 2004

SECRETARY OF STATE
ADMINISTRATIVE RULES

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

A. Rule Number 4 CSR 240-3.500
Diskette File Name 240-3.500 Word 2000
Name of Person to call with questions about this rule:
Content Bruce H. Bates Phone 573-751-7434 FAX 573-751-9285
Data Entry Susan L. Sundermeyer Phone 573-751-4335 FAX Same as above
Email Address bruce.bates@psc.mo.us
Interagency Mailing Address Governor Office Building, 200 Madison St., 8th Floor, Jefferson City, MO
Statutory Authority 386.250 Current RSMo date 2000
Date Filed With the Joint Committee on Administrative Rules Exempt per Sections 536.024 and 536.037, RSMo 2000, and Executive Order No. 97-97 (June 27, 1997)

B. CHECK, IF INCLUDED:

- | | |
|--|---|
| <input checked="" type="checkbox"/> This transmittal completed | <input type="checkbox"/> Incorporation by reference materials, if any |
| <input checked="" type="checkbox"/> Cover letter | <input type="checkbox"/> Authority with history of the rule |
| <input type="checkbox"/> Affidavit | <input type="checkbox"/> Public cost |
| <input type="checkbox"/> Forms, number of pages <u> </u> | <input type="checkbox"/> Private cost |
| <input type="checkbox"/> Fiscal notes | <input type="checkbox"/> Hearing and comment period |

C. RULEMAKING ACTION TO BE TAKEN

- ☐ Emergency Rulemaking, (check one) ☐ rule ☐ amendment ☐ rescission ☐ termination
MUST include effective date
- ☐ Proposed Rulemaking (check one) ☐ rule ☐ amendment ☐ rescission
- ☒ Order of Rulemaking (check one) ☐ rule ☒ amendment ☐ rescission ☐ termination
MUST complete page 2 of this transmittal
- ☐ Withdrawal (check one) ☐ rule ☐ amendment ☐ rescission ☐ emergency
- ☐ Rule action notice
- ☐ In addition
- ☐ Rule under consideration

D. SPECIFIC INSTRUCTIONS: Please indicate any special instructions (e.g., publication date preference, identify material to be incorporated by reference, or forms included herein).

JCAR Stamp

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-3.500

1a. Effective Date for the Order

☒ Statutory 30 days

Specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?

☒ YES

☐ NO

1c. If the answer is YES, please complete section F. If the answer is NO, **STOP** here.

F. Please provide a complete list of the changes in the rule text for the order of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. This is not a reprinting of your order, but an explanation of what sections, subsections, etc. have been changed since the original proposed rule was filed.

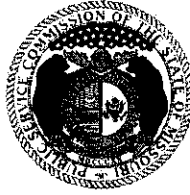
~~(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer text. DO NOT delete the header, however.)~~

Summary of Changes to Rule 4 CSR 240-3.500 (8):

Staff recommends the change to the definition of "customer" to mirror the definition of "customer" found in 4 CSR 240-32.20 (11).

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.



Commissioners

STEVE GAW
Chair

CONNIE MURRAY

ROBERT M. CLAYTON III

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.state.mo.us>

ROBERT J. QUINN, JR.
Executive Director

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. PRENGER
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

March 23, 2004

Honorable Matt Blunt
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-3.500 Definitions Pertaining Specifically to Telecommunication Company Rules.

Dear Secretary Blunt:

I do hereby certify that the attached are accurate and complete copies of the Order of Rulemaking lawfully submitted by the Missouri Public Service Commission for filing this 23rd day of March 2004.

Statutory authority: 386.250, RSMo (2000)

Missouri Public Service Commission Case No.: TX-2004-0106

If there are any questions, please contact: Bruce H. Bates, Associate General Counsel
Missouri Public Service Commission
200 Madison St.
Post Office Box 360
Jefferson City, Missouri 65102
(573) 751-7434

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Hardy Roberts", is written over a horizontal line.

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

Enclosures

Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 3 – Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission by sections 386.040, 386.250, and 392.200, RSMo, the commission amends a rule as follows:

4 CSR 240-3.500 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 2003 (28 Mo Reg 2139-2140). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One party filed comments suggesting a revision to 4 CSR 240-3.500(8). Two (2) parties filed written comments expressing concerns regarding 4 CSR-3.500(21). This portion of the proposed rulemaking pertains to a definition for the term “service objective.” Two (2) other parties filed written comments supportive of the proposed definition.

COMMENTS: The Commission Staff (“Staff”) states 4 CSR 240-3.500(8) should be further revised to mirror the proposed definition for customer as proposed in 4 CSR 240-32.020(11).

RESPONSE AND EXPLANATION OF CHANGE: The Commission finds Staff’s proposed revision to be reasonable. Staff recommends the proposed definition delete “etc.” and insert “or other entity.” The definition for customer should read as follows, “Customer means any individual, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, or other entity that accepts financial and other responsibilities in exchange for telecommunications service.”

COMMENTS: AT&T Communications of the Southwest, Inc. (“AT&T”) and MCI filed written comments for 4 CSR 240-3.500(21). AT&T and MCI oppose a blanket obligation to report all metrics upon an exchange-specific basis. Both companies challenge the proposed rule’s private cost, which contends the proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate. AT&T and MCI state the Commission should not assume there would not be a fiscal impact if these changes were adopted. Both parties state such detailed reporting is not realistic or meaningful. AT&T states that exchange-specific reporting for three (3) metrics (originating switched calls, local exchange switched call completion, and interexchange switched call completion) is redundant or impossible. One (1) switch can provide local service to more than one (1) exchange and these metrics are intended to simply monitor the performance of a switch. The switch should perform the same across each exchange. Both AT&T and MCI recommend the Commission delete the proposed definition.

Staff and the Office of the Public Counsel (“OPC”) find the proposed definition for “service objective” to be reasonable. Staff points out the term is used in the Commission’s existing rules;

however it has never been defined. Staff and OPC note that existing rules contemplate exchange-specific monitoring of quality of service measures. OPC suggests such monitoring advances the protection of the ratepayer and is consistent with the public interest as identified in Section 392.185, RSMo 2000.

RESPONSE: The Commission's existing telecommunications quality of service rules repeatedly used the term "service objective". In this respect, the concept of defining a term used in the Commission's rules is reasonable. The term is intended to demonstrate an acceptable quality of service level for the various service categories. The proposed definition also states that service objectives should be maintained on an exchange-specific basis or as otherwise monitored according to 4 CSR 240-32.080. According to 4 CSR 240-32.080, the existing monitoring criteria for many quality of service categories is by exchange. Such exchange-specific monitoring criteria are not being changed by this proposed rulemaking. In this respect monitoring certain quality of service measures on an exchange-specific basis should not be considered a new requirement for providers of basic local telecommunications service. In addition, the Commission has previously stated Chapter 32 requirements should apply to both incumbent and competitive local exchange companies (see August 2, 1999 *Missouri Register*, Vol. 24, No. 15, pages 1956 and 1963). Based on these considerations the proposed definition is reasonable and it should not impose a financial impact on any company if the company is currently complying with the Commission's rules. No changes will be made to the proposed definition based on these comments.

4 CSR 240-3.500 Definitions Pertaining Specifically to Telecommunication Company Rules

(8) Customer means any individual, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, or other entity that accepts financial and other responsibilities in exchange for telecommunications service.