

Jason Kander

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

FILED
January 22, 2014
Data Center
Missouri Public
Service Commission

Rule Number 4 CSR 240-2.090

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

COPY

Name of person to call with questions about this rule:

Content Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

Email address morris.woodruff@psc.mo.gov

Data Entry Chris Koenigsfeld Phone 573-751-4256 FAX 573-526-6010

Email address christine.koenigsfeld@psc.mo.gov

Interagency mailing address GOB 9th Floor

TYPE OF RULEMAKING ACTION TO BE TAKEN

- ☐ Emergency rulemaking, include effective date
☒ Proposed Rulemaking
☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration
☐ Request for Non-Substantive Change
☐ Statement of Actual Cost
☐ Order of Rulemaking

Effective Date for the Order _____

☐ Statutory 30 days OR Specific date _____

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☐ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Small Business Regulatory
Fairness Board (DED) Stamp

SMALL BUSINESS
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

JAN 22 2014

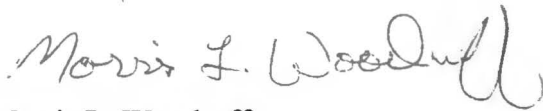
ADMINISTRATIVE RULES

Woodruff
January 22, 2014
Certification of Administrative Rule

Statutory Authority: sections 386.410, RSMo Supp. 2012

If there are any questions regarding the content of this proposed rulemaking, please contact:

Morris L. Woodruff, Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-2849
morris.woodruff@psc.mo.gov

A handwritten signature in dark ink, appearing to read "Morris L. Woodruff", with a stylized, flowing script.

Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures



Commissioners

ROBERT S. KENNEY
Chairman

STEPHEN M. STOLL

WILLIAM P. KENNEY

DANIEL Y. HALL

Missouri Public Service Commission

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

JOSHUA HARDEN
General Counsel

MORRIS WOODRUFF
Secretary

WESS A. HENDERSON
Director of Administration
and Regulatory Policy

CHERLYN D. VOSS
Director of Regulatory Review

KEVIN A. THOMPSON
Chief Staff Counsel

January 22, 2014

Jason Kander
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-2.090 Discovery and Prehearings

Dear Secretary Kander,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed rulemaking lawfully submitted by the Missouri Public Service Commission.

The Public Service Commission has determined and hereby certifies that this proposed rulemaking will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 536.017, RSMo 2000, that the proposed rulemaking does not constitute a taking of real property under relevant state and federal law, and that the proposed rulemaking conforms to the requirements of 1.310, RSMo Supp. 2012, regarding user fees.

The Public Service Commission has determined and hereby also certifies that this proposed rulemaking complies with the small business requirements of 1.310, RSMo Supp. 2012, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo Supp. 2012, by exempting any small business consisting of fewer than fifty full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

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

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ADMINISTRATIVE RULES

4 CSR 240-2.090 Discovery and Prehearings. The Commission is amending section (2) of the rule.

PURPOSE: This amendment breaks the single section requirements into subsections to make the rule more readable and adds the requirement for submission of data requests through the Commission's Electronic Filing and Information System (EFIS).

[(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].

(2) Parties may use data requests as a means for discovery.

(A) Data request means an informal written request for documents or information that may be transmitted directly between attorneys, agents or employees of the commission, public counsel or other parties.

(B) 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.

(C) 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.

(D) 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.

(E) 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.

(F) The responding party shall promptly notify the requesting party of any changes to the answers previously given to a data request.

JOINT COMMITTEE ON

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ADMINISTRATIVE RULES

(G) Upon agreement by the parties or as ordered by the commission for good cause shown, the time limits for serving or answering data requests may be modified.

(H) Any data request issued to or by the staff of the commission shall be submitted and responded to in the commission's electronic filing and information system (EFIS).

(I) 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.

AUTHORITY: section 386.410, RSMo Supp. [1998] **2012**. * 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.

PUBLIC COST: *This proposed rule will not cost state agencies or political subdivisions in excess of \$500.00 in total.*

PRIVATE COST: *This proposed rule will not cost private entities in excess of \$500.00 in total.*

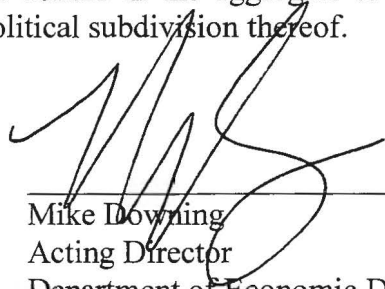
NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: *Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices on or before April 2, 2014, and should include a reference to Commission Case No. AX-2014-0193. Comments may also be submitted via a filing using the Commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for April 7, 2014, at 10:00 a.m., in Room 305 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to Commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*

AFFIDAVIT

PUBLIC COST

STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Mike Downing, Acting Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed rule, 4 CSR 240-2.090, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Mike Downing
Acting Director
Department of Economic Development

Subscribed and sworn to before me this 9th day of January, 2014, I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on 17 July 2015.



Notary Public

ANNETTE KEHNER
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: July 17, 2015
Commission Number: 11492656

Small Business Regulator Fairness Board

Small Business Impact Statement

Date: January 6, 2014

Rule Number: 4 CSR 240-2.090

Name of Agency Preparing Statement: Missouri Public Service Commission

Name of Person Preparing Statement: Morris Woodruff

Phone Number: 573-751-2849

Email: morris.woodruff@psc.mo.gov

Name of Person Approving Statement: Morris Woodruff

Please describe the methods your agency considered or used to reduce the impact on small businesses *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

The only change to filing requirements is that data requests to and from the Commission's Staff must be submitted through the Commission's Electronic Filing & Information System (EFIS). There are no significant differences in compliance, reporting or any other requirements that would impact small businesses.

Please explain how your agency has involved small businesses in the development of the proposed rule.

This rule change will not have an impact on small businesses so their involvement has not been sought.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

The proposed rule will have no monetary impact on the MPSC or any other state agency.

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

Small utilities that send data requests to the Commission's Staff will be required to comply with the proposed rule. However, the rule change will simply require them to send data requests to a different address and will not impose a burden on them.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

There should be no direct or indirect costs associated with compliance.

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Regulated electric, natural gas, steam, telephone, sewer and water utilities, as well as manufactured home manufactures and dealers.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes___ No_X__

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.