

Robin Carnahan

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

Rule Number 4 CSR 240-2.010

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

FILED
July 6, 2011
Data Center
Missouri Public
Service Commission

Name of person to call with questions about this rule:

Content Nancy Dippell Phone 573-751-4393 FAX _____

Email address Nancy.dippell@psc.mo.gov

Data Entry same

Phone _____

FAX _____

Email address _____

Interagency mailing address Public Service Commission, 9th Fl, Gov.Ofc Bldg, JC, MO

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☐ Proposed Rulemaking

☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☒ 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:

Changes were made to section (21).

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON

JUL 06 2011

ADMINISTRATIVE RULES



Commissioners

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Director, Utility Operations

STEVEN C. REED
Secretary/General Counsel

KEVIN A. THOMPSON
Chief Staff Counsel

Robin Carnahan
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Dear Secretary Carnahan,

Re: 4 CSR 240-2.010 Definitions

CERTIFICATION OF ADMINISTRATIVE RULE

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

Statutory Authority: section 386.410, RSMo 2000

If there are any questions regarding the content of this order of rulemaking, please contact me at the address and number below.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Dippell".

Nancy Dippell, Deputy Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-4393
Nancy.dippell@psc.mo.gov

Enclosure

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

ORDER OF RULEMAKING

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

4 CSR 240-2.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendments was published in the *Missouri Register* on April 15, 2011 (36 MoReg 1039). Those sections with changes are reprinted here. These proposed amendments become effective thirty (30) days after publication in the *Code of State Regulations*.

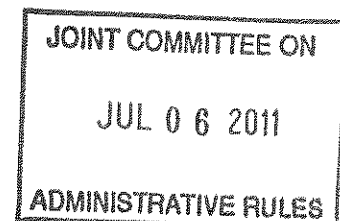
SUMMARY OF COMMENTS: A public hearing on the proposed amendments was held May 19, 2011, and the public comment period ended May 16, 2011. One (1) written comment was received and no one testified with regard to this rule at the hearing.

COMMENT: Lewis Mills, on behalf of the Office of the Public Counsel, commented that the commission's administrative structure should provide for administration of staff counsel independent of the general counsel. He also stated that although section (21) refers to the "advocacy functions" of the staff counsel's office and the representation of "the staff," the rule does not define "staff" nor does it define the purpose of the advocacy function.

RESPONSE AND EXPLANATION OF CHANGE: In order to separate the attorneys representing the commission staff from the commission for purposes of avoiding *ex parte* contacts on substantive matters before the commission, the office of the staff counsel was created by the commission. In addition, the commission amended this rule to provide that separation formally. The commission determined in that reorganization that its general counsel should be responsible for the administrative functions of the staff counsel's office. Because this was an administrative function of the commission, the organizational structure and job duties of the commission staff do not need to be set out as a rule and the commission declines to do so any further than is needed for informational purposes. Further, "commission staff" is defined in section (5) and the "advocacy functions" mentioned in section (21) are generally defined as the representation of staff in proceedings before the commission. For consistency, however, the commission will change "staff of the commission" to "commission staff" in section (21).

4 CSR 240-2.010 Definitions

(21) Staff counsel means any attorney employed to represent the commission staff in proceedings before the commission. For administrative purposes only, the staff counsel's office is considered part of the general counsel's office and the chief staff counsel reports to the general



counsel. However, the staff counsel's office performs its advocacy functions independently, under the direction of the chief staff counsel in consultation with the executive director and the directors of the operations and utility services divisions.