

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 3rd day of May, 2023.

In the Matter of a Proposed Amendment to)
Commission Rule 20 CSR 4240-13.050)
Regarding Discontinuance of Service) **File No. AX-2023-0287**

ORDER DENYING PETITION FOR RULEMAKING

Issue Date: May 3, 2023

Effective Date: May 13, 2023

On March 20, 2023, Charles A. Harter (Mr. Harter) filed a petition asking the Commission to amend its Discontinuance of Service rule, 20 CSR 4240-13.050, to require service by mailing to contain a postmark by the United States Postal Service. Mr. Harter contends he is complainant in several complaints before the Commission, and that the current rule prevents him from getting adequate notice of discontinuance of service.

In response to the petition, the Office of the Public Counsel (OPC) filed comments on April 17, 2023. OPC recommends the Commission open a rulemaking docket. OPC states that Mr. Harter’s suggested amendment to the rule might not give Mr. Harter the relief he seeks. That is, the evidence of mailing a postmark provides will not necessarily speed up the mailing process. Thus, OPC will likely suggest a change to extend the timeline for mailing notices instead of requiring a postmark. Alternatively, OPC requests a workshop docket.

Also on April 17, 2023, Spire Missouri Inc. (Spire) filed comments. Spire uses a mailing permit to send its discontinuance notices. Spire states that being required to use a

postmark instead of a mailing permit would cost Spire approximately \$146,000 annually. Spire believes it would be entitled to recover this expense from ratepayers.

Staff filed its report on April 28, 2023. In that report, Staff concluded that it found no basis for proceeding with a rulemaking. The proposed rulemaking would impose significant costs on utilities and ratepayers without conferring significant benefits.

Staff contacted other Missouri utilities, and they reported no complaints about the lack of postmarks on discontinuance notices. Staff also received information from The United States Postal Services (USPS). USPS provides a significant discount to business that use a bulk mailing permit to send mail. If the rule were changed as Mr. Harter suggests, utilities would lose that discount, and have to spend from thousands to hundreds of thousands of dollars annually to postmark its discontinuance notices. Staff advised the Commission to deny the petition for rulemaking.

Section 536.041, RSMo 2016, allows any person to petition a state agency requesting the adoption, amendment, or repeal of any rule. That section further requires the agency to explain what action it has taken in response to the petition and the reasons for that action. Similarly, Commission Rule 20 CSR 4240-2.180(3)(B) requires the Commission to respond to a petition for rulemaking by either denying the petition in writing, stating the reasons for its decision, or initiate a rulemaking in accordance with Chapter 536, RSMo.

Section 536.041 also requires the agency to offer a concise summary of the agency's "findings with respect to the criteria set forth in subsection 4 of section 536.175." The criteria in subsection 4 are designed to guide the agency's review of its existing rules under the periodic review process required by that statute. As a result, those criteria do not precisely match the review needed to determine whether the rulemaking petition should be

granted. However, generally the criteria is to require the agency to consider whether the rule is properly drafted to be consistent with the language and intent of the authorizing statute; whether the rule imposes an unnecessary regulatory burden; and whether a less restrictive, more narrowly tailored, or alternative rule could accomplish the same purpose.

Based on the comments it has received, as well as the report submitted by Staff, the Commission concludes that there is an insufficient basis to support Mr. Harter’s petition for rulemaking. The Commission further concludes that the proposed rule would impose an unnecessary regulatory burden by requiring utilities to spend several thousand dollars annually for postage, and that such an expense would likely be ultimately borne by ratepayers without conferring any benefit to them. Therefore, the Commission will deny the application.

THE COMMISSION ORDERS THAT:

1. The Petition to Amend Rule filed by Mr. Harter on March 20, 2023, is denied.
2. This order shall become effective on May 13, 2023.



BY THE COMMISSION

Nancy Dippell

Nancy Dippell
Secretary

Rupp, Chm., Coleman, Holsman, and
Kolkmeier CC., concur.

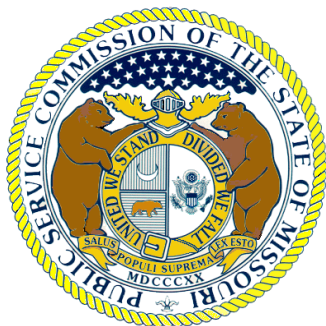
Pridgin, Deputy Chief Regulatory Law Judge

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 3rd day of May, 2023.



Nancy Dippell

Nancy Dippell
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

May 3, 2023

File/Case No. AX-2023-0287

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Nancy Dippell
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.