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March 4, 2011
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Missouri Public
Service Commission



Robin Carnahan
Secretary of State

**Administrative Rules Division
Rulemaking Transmittal Receipt**

Rule ID: 12611
Date Printed: 3/2/2011
Rule Number: 4 CSR 240-2.125
Rulemaking Type: Proposed Amendment
Date Submitted to Administrative Rules Division: 3/2/2011
Date Submitted to Joint Committee on Administrative Rules: 3/2/2011

Name of Person to Contact with questions concerning this rule:

Content: Nancy Dippell	Phone: 1-4393	Email: Nancy.dippell@psc.mo.gov	Fax: na
RuleDataEntry:	Phone:	Email:	Fax:

Included with Rulemaking:

Cover Letter	3/02/2011
Affidavit for public cost	3/02/2011

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Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

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SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-2.125

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

COPY

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:

Amending Sections (1), (2), and (3); renumbering (6); deleting (4) and (5).

Small Business Regulatory Fairness Board (DED) Stamp

SMALL BUSINESS
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

MAR 02 2011

ADMINISTRATIVE RULES



Commissioners

KEVIN GUNN
Chairman

ROBERT M. CLAYTON III

JEFF DAVIS

TERRY M. JARRETT

ROBERT S. KENNEY

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>

WESS A. HENDERSON
Executive Director

VACANT
Director, Administration and
Regulatory Policy

ROBERT SCHALLENBERG
Director, Utility Services

NATELLE DIETRICH
Director, Utility Operations

STEVEN C. REED
Secretary/General Counsel

KEVIN A. THOMPSON
Chief Staff Counsel

March 2, 2011

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

Re: 4 CSR 240-2.125 Procedures for Alternative Dispute Resolution

Dear Secretary Carnahan,

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.

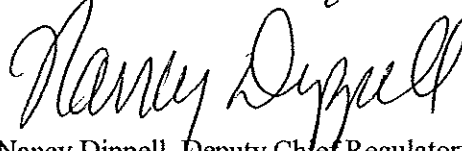
The Public Service Commission has determined and hereby certifies that this proposed rulemaking will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 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, 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, in that it does not have an adverse impact on small businesses consisting of fewer than twenty-five 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, by exempting any small business consisting of fewer than twenty-five 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.

Statutory Authority: section 386.410, RSMo 2000

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

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Dippell". The signature is fluid and cursive, with a small mark above the "i" in "Dippell".

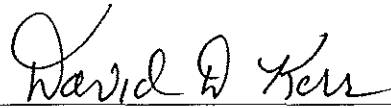
Nancy Dippell, Deputy Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-4393
Nancy.dippell@psc.mo.gov

Enclosure

**AFFIDAVIT
PUBLIC COST**

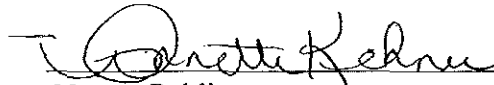
STATE OF MISSOURI)
)
COUNTY OF COLE)

I, David Kerr, 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 amendment, 4 CSR 240-2.125, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

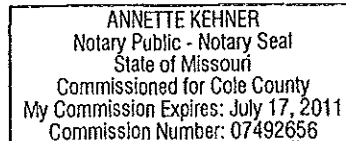


David Kerr
Director
Department of Economic Development

Subscribed and sworn to before me this 18th day of Feb, 2011, I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on 17 July 2011



Notary Public



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

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PROPOSED AMENDMENT

SECRETARY OF STATE
ADMINISTRATIVE RULES

4 CSR 240-2.125 Procedures for Alternative Dispute Resolution The commission is amending sections (1), (2), and (3), renumbering section (6), and deleting sections (4) and (5).

PURPOSE: Section (1) is amended to remove a requirement that was cumbersome and not necessary. Section (2) is amended for clarity and to specifically state that all other time limitations in the commission case will be tolled until a mediation is complete.

(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--

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]3. A date by which a settlement will be reached or settlement negotiations under this procedure will end.

(2) Mediation.

(A) The commission may order *[that]*mediation *[proceed in a complaint case]* before any further proceeding in *[such]*a 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.]* **As the commission deems appropriate, or upon a request for mediation, the commission may appoint a presiding officer or other neutral third party other than the presiding officer assigned to the case to mediate the dispute.**

(C) *[The written application for mediation services should include the case number, the names of each party and a brief explanation of the case.]***All other actions on the case shall cease and all time limitations shall be tolled pending the completion of mediation process, except as otherwise provided by law.**

[(3)](D) 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.

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MAR 02 2011
ADMINISTRATIVE RULES

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

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

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the Commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in the Governor Office Building, 200 Madison Street, 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 amendment, 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 (voice) or Relay Missouri at 711.

Small Business Regulatory Fairness Board Small Business Impact Statement

Date: 1-27-11

Rule Number: 4 CSR 240-2.125 Procedures for Alternative Dispute Resolution

Name of Agency Preparing Statement: Public Service Commission

Name of Person Preparing Statement: Nancy Dippell

Phone Number: 573-751-4393 Email: nancy.dippell@psc.mo.gov

Name of Person Approving Statement: Morris Woodruff, Chief Regulatory Law Judge, Public Service Commission

Please describe the methods your agency considered or used to reduce the impact on small businesses: This rule is being amended to reduce the requirements parties before the Commission, including small utilities or small business intervenors, must complete in order to request alternative dispute resolution before the Commission.

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

The Commission based this amendment on its general experience under the old rule. The Commission held a roundtable discussion on November 30, 2010, and invited the public to comment informally on the draft of the proposed rules. The Commission subsequently incorporated some changes from that roundtable into the rules for clarity and ease of use.

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.

There are no monetary costs or benefits to any agency and no fees will be collected as the result of this amendment.

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

No small businesses are "required" to comply with the rule, as the rule is only implemented upon mutual consent of the parties. However, if a small business appears before the Commission, this amendment will make requesting alternative dispute resolution less cumbersome.

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

There are no costs associated with compliance with this amendment.

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

There are no costs associated with compliance with this amendment.

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.