

FILED  
March 4, 2011  
Data Center  
Missouri Public  
Service Commission



**Robin Carnahan**  
Secretary of State

**Administrative Rules Division  
Rulemaking Transmittal Receipt**

Rule ID: 12609  
Date Printed: 3/2/2011  
Rule Number: 4 CSR 240-2.116  
Rulemaking Type: Proposed Amendment  
Date Submitted to Administrative Rules Division: 3/2/2011  
Date Submitted to Joint Committee on Administrative Rules: 3/2/2011

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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:

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Included with Rulemaking:

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

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# Robin Carnahan

Secretary of State  
Administrative Rules Division

## RULE TRANSMITTAL

### Administrative Rules Stamp

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SECRETARY OF STATE  
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-2.116

COPY

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

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, 9<sup>th</sup> 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 the purpose clause and Section (1).

### Small Business Regulatory Fairness Board (DED) Stamp

SMALL BUSINESS  
REGULATORY FAIRNESS BOARD

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### JCAR Stamp

JOINT COMMITTEE ON

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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

NATELE 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 240-2.116 Dismissal

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.

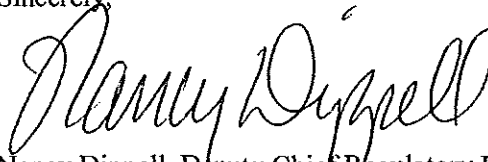
The Public Service Commission has determined and hereby certifies that this proposed rulemaking will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 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, reading "Nancy Dippell". The signature is fluid and cursive, with the first name "Nancy" and last name "Dippell" clearly distinguishable.

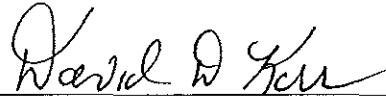
Nancy Dippell, Deputy Chief Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street  
P.O. Box 360  
Jefferson City, MO 65102  
(573) 751-4393  
[Nancy.dippell@psc.mo.gov](mailto:Nancy.dippell@psc.mo.gov)

Enclosure

**AFFIDAVIT  
PUBLIC COST**

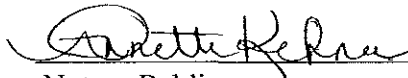
**STATE OF MISSOURI )**  
**)**  
**COUNTY OF COLE       )**

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 240-2.116, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

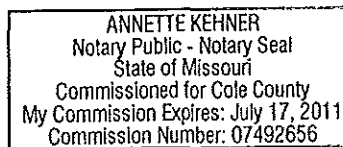


\_\_\_\_\_  
David Kerr  
Director  
Department of Economic Development

Subscribed and sworn to before me this 18<sup>th</sup> 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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ADMINISTRATIVE RULES

PROPOSED AMENDMENT

**4 CSR 240-2.116 Dismissal** The commission is amending the purpose clause and section (1).

*PURPOSE: The purpose clause is being amended because it did not accurately reflect the purpose of the rule. Section (1) is being amended to alter one of the ways to dismiss a complaint after evidence has been offered or prefiled testimony filed. That portion is amended to require the consent of all of the parties instead of just the "adverse" parties to dismiss a complaint without leave of the commission.*

*PURPOSE: This rule prescribes the conditions under which the commission or an initiating party may dismiss a case **or by which any party may be dismissed**.*

(1) An applicant or complainant may voluntarily dismiss an application or complaint without an order of the commission at any time before prepared testimony has been filed or oral evidence has been offered, by filing a notice of dismissal with the commission[and serving a copy on all parties]. Once evidence has been offered or prepared testimony filed, an applicant or complainant may dismiss an action only by leave of the commission, or by written consent of all the [adverse]parties.

*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*

JOINT COMMITTEE ON

MAR 02 2011

ADMINISTRATIVE RULES

*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 240-2.116 Dismissal**

**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:** The commission used its past experience in processing complaints and comments from practitioners before it when considering the amendments to this rule. The rule is procedural and should have very little if any impact on small businesses.

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

The commission used its past experience in processing complaints and comments from practitioners before it when considering the amendments to this 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 costs to any agency and no fees to be collected as the result of this amendment. The Commission will benefit from having a clear rule on how to dismiss a complaint without leave of the Commission.

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

No small business is required to comply with this rule. If a small business (such as a small utility) is involved in a complaint before the Commission and should want to dismiss the complaint after evidence has been taken or prepared

testimony filed, then the business would be required to get consent of all of the parties or permission from the Commission to do so.

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

There are no costs associated with compliance with this procedural rule.

**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 or benefits to businesses associated with compliance with this procedural rule.

**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.*