

COPY

SECRETARY OF STATE
ADMINISTRATIVE RULES

A. Rule Number 4 CSR 240-3.545

Diskette File Name 240-3.545 Rulemaking Word 2000

Name of Person to call with questions about this rule:

Content Bruce H. Bates Phone 573-751-7434 FAX 573-751-9285

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Interagency Mailing Address Governor Office Building, 200 Madison St., 8th Floor, Jefferson City, MO

Statutory Authority 386.250 and 392.220 Current RSMo date 2000

Date Filed With the Joint Committee on Administrative Rules Exempt per Sections 536.024 and 536.037, RSMo 2000, and Executive Order No. 97-97 (June 27, 1997)

B. CHECK, IF INCLUDED:

- | | | | |
|-------------------------------------|-----------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | This transmittal completed | <input type="checkbox"/> | Incorporation by reference materials, if any |
| <input checked="" type="checkbox"/> | Cover letter | <input type="checkbox"/> | Authority with history of the rule |
| <input type="checkbox"/> | Affidavit | <input type="checkbox"/> | Public cost |
| <input type="checkbox"/> | Forms, number of pages ____ | <input type="checkbox"/> | Private cost |
| <input type="checkbox"/> | Fiscal notes | <input type="checkbox"/> | Hearing and comment period |

C. RULEMAKING ACTION TO BE TAKEN

- ☐ Emergency Rulemaking, (check one) ☐ rule ☐ amendment ☐ rescission ☐ termination
MUST include effective date _____
- ☐ Proposed Rulemaking (check one) ☐ rule ☐ amendment ☐ rescission
- ☒ Order of Rulemaking (check one) ☒ rule ☐ amendment ☐ rescission ☐ termination
MUST complete page 2 of this transmittal
- ☐ Withdrawal (check one) ☐ rule ☐ amendment ☐ rescission ☐ emergency
- ☐ Rule action notice
- ☐ In addition
- ☐ Rule under consideration

D. **SPECIFIC INSTRUCTIONS:** Please indicate any special instructions (e.g., publication date preference, identify material to be incorporated by reference, or forms included herein).

JCAR Stamp

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-3.545

1a. Effective Date for the Order

☒ Statutory 30 days

Specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?

☒ YES

☐ NO

1c. If the answer is YES, please complete section F. If the answer is NO, **STOP** here.

F. Please provide a complete list of the changes in the rule text for the order of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. This is not a reprinting of your order, but an explanation of what sections, subsections, etc. have been changed since the original proposed rule was filed.

~~(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer text. DO NOT delete the header, however.)~~

4 CSR 240-3.545, Sections three (3), seven (7), eight (8), nine (9), ten (10), twelve (12), thirteen (13), fourteen (14), fifteen (15), nineteen (19), twenty (20) and twenty-two (22) have been modified.

In section three (3), the commission added the following sentence at the end of the section: **Unless specifically indicated in another subsection of this rule, tariff pages or sheets in effect as of the effective date of this rule are considered in compliance with the rule.**

In section seven (7), the commission added the words **“or company-designated representative”**.

In section eight (8), the commission added the following sentence at the end of the introductory section: **For new tariffs filed after the effective date of this rule, information contained in Sections A through F will appear at the beginning of the company’s tariff.**

In subsection eight (8)(B), the commission added the words **“If applicable, certification”** to the beginning of the subsection and **“authority”** was changed to a lower case **“a”**.

In subsection eight (8)(C), the commission added the words **“in connection with certification to provide service”** to the end of the first sentence.

In subsection eight (8)(D), the commission added the words **“website or”**.

In subsection eight (8)(H), the commission deleted the words: “For competitive and incumbent local exchange telecommunications carriers, a tariff shall contain an alphabetical list of the exchange areas served, including state name if other than Missouri. Areas served must follow exchange boundaries of the incumbent local telecommunications company and also be no smaller than an exchange, absent a ruling by the commission under 392.200(4)(2)(b) RSMo 2000.” and added the following

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.

language: For competitive and incumbent local exchange telecommunications carriers, a tariff shall contain an alphabetical list of the exchange area service by rate group if applicable, including state name if other than Missouri. Competitive local exchange carrier shall be permitted to provide an alphabetical list of the exchange area by incumbent local exchange carrier. Areas served with basic local exchange service must follow exchange boundaries of the incumbent local exchange telecommunications company and also must be no smaller than an exchange absent a ruling by the Commission under 392.200.2(b) RSMo 2000.

In section nine (9), the commission removed, from the first sentence, the words "original sheets and each subsequent sheet" and replaced it with the words **"new tariffs or all new pages"**. "A tariff" was changed to plural **"tariffs"**, **"must"** was changed to **"shall"** and **"(page)"** was added after every reference to "sheet". The words **"substantially as follows:"** were added to the second sentence and **"(cancels, replaces)"** was added to every reference to "canceling".

In section ten (10), the words **"or an authorized agent"** were added by the commission.

In section twelve (12), the comma after (EFIS) was removed and the word **"and"** was added. After the word "Counsel", the comma was replaced by a period and the word **"and"** was removed. The words **"A copy of the proposed change(s)"** was added. After the word **"product"**, the word **"or"** was removed. A comma was added after **"service"** and the words **"or category of services"** were added in two places. The commission added the following introductory clause before **"for each change or adjustment in prices or fees"** and the word **"For"** was changed to a lower case **"f"** **Upon request by Commission Staff or the Office of the Public Counsel, a telecommunications company shall provide supporting documentation"**. The commission also added the words: **Request for supporting documentation shall be made within five (5) business days of the filing and responses shall be provided within five (5) business days of receipt of the request for supporting documentation. Before the outline listing, the word "summary" was replaced with the word "documentation"**.

In section thirteen (13), the commission added a new sentence: **This statement may be in lieu of the cover letter required in 4 CSR 240-3.545(12) providing it contains all the information required of cover letters as outlined in 4 CSR 240-3.545(12).** The words: **"is in addition to the cover letter and"** were removed.

In section fourteen (14), the commission added the sentence: **Related tariff filings impacting multiple PSC MO No. tariffs shall be linked together, when technically feasible.**

In section fifteen (15), the words **"that was"** were added before **"sent"** and the words **"or will be sent"** were added after the word **"sent"** when it appeared. The reference to 4 CSR 240-33.040(3) was changed to 4 CSR 240-33.040(4).

In section nineteen (19), the commission replaced the word **"companies"** with **"services"** and removed the reference to incumbent local exchange carriers.

In section twenty (20), the reference to **"a name change"** was changed to **"any name change"** and the words **"affecting customer recognition of the company"** were added after **"name change"**.

Section twenty-two (22), was replaced in its entirety by the commission with the following words:
Within six months of the effective date of the rule, all telecommunications companies shall update the Commission's electronic filing system with the current name, address, telephone number and e-mail address for the regulatory contact person within the telecommunications company. This information shall be updated in the electronic filing system within ten (10) business days of when changes occur.



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CONNIE MURRAY
ROBERT M. CLAYTON III

Missouri Public Service Commission

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Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

July 7, 2004

Honorable Matt Blunt
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-3.545 Filing Requirements for Telecommunication Company Tariffs (New Rule.)

Dear Secretary Blunt:

I do hereby certify that the attached are accurate and complete copies of the Order of Rulemaking lawfully submitted by the Missouri Public Service Commission for filing this 7th day of July 2004.

Statutory authority: 386.250 and 392.220 RSMo (2000)

Missouri Public Service Commission Case No.: TX-2003-0379

If there are any questions, please contact: Bruce H. Bates, Associate General Counsel
Missouri Public Service Commission
200 Madison St.
Post Office Box 360
Jefferson City, Missouri 65102
(573) 751-7434

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Hardy Roberts", is written over a horizontal line.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission

Enclosures

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 3 – Filing and Reporting Requirements

ORDER OF RULEMAKING

By the authority vested in the Secretary of State under section 536.023, RSMo 2000, the secretary adopts a rule as follows:

4 CSR 240-3.545 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on March 1, 2004 (29 MoReg 369). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The written public comment period ended April 12, 2004, and the Commission held a public hearing on this proposed rule on April 19, 2004. The Office of the Public Counsel filed comments and testified generally in support of the proposed rule at the public hearing. The Commission's staff filed comments and Natelle Dietrich, witness for staff, testified at the public hearing generally in support of the proposed rule, with the exception of subsection (12). Counsel for Southwestern Bell Telephone, LP d/b/a SBC Missouri filed written comments and Jason Olson, Director Regulatory testified generally that the proposed rule was unnecessary, but continued to support SBC's written comments if the Commission moves forward with the proposed rule. Eight (8) written comments specifically addressed the proposed rule. At the public hearing, Natelle Dietrich, witness for staff, responded to the specific written comments.

RESPONSE: The Commission has previously found that this proposed rule is necessary to carry out the purposes of Sections 386.250 RSMo.

4 CSR 240-3.545(3)

COMMENT: R. Matthew Kohly, district manager of AT&T; Richard Telthorst, president of the Missouri Telecommunications Industry Association; and Larry Dority, counsel for CenturyTel of Missouri, LLC and Spectra Communications Group, LLC, filed or concurred in comments recommending changes to this section to clarify that existing tariffs need not be amended solely to comply with the rule. At the public hearing, Natelle Dietrich, witness for staff, indicated there was never an intent to require companies to completely rewrite their tariffs or to resubmit tariffs that are currently in effect. Ms. Dietrich suggested a sentence be added to Section 3 as follows: Unless specifically indicated elsewhere in the rule, tariff pages or sheets in effect as of the effective date of this rule are considered in compliance with the rule.

RESPONSE AND EXPLANATION OF CHANGE: The Commission considered the comments and agrees that staff's suggested change to the proposed rule is appropriate because the intent of the rule is to provide guidance in preparing tariffs for submission to the Commission, not to mandate changes to existing effective tariffs.

4 CSR 240-3.545(4)

COMMENT: Counsel for Southwestern Bell Telephone, LP d/b/a SBC Missouri filed comments objecting to the proposed rule because it would be unduly burdensome and oppressive for SBC Missouri to renumber its tariffs.

RESPONSE: At the public hearing, Natelle Dietrich, witness for staff, indicated there was never an intent to require companies to completely rewrite their tariffs or to resubmit tariffs that are currently in effect. Ms. Dietrich suggested a sentence be added to subsection (3) as follows: Unless specifically indicated, tariff pages or sheets in effect as of the effective date of this rule are considered in compliance with the rule. The Commission finds the change to subsection (3) should address SBC concerns. As previously stated, the intent of the rule is to provide guidance in preparing tariffs for submission to the Commission, not to mandate changes to existing effective tariffs. No change to this subsection will be made as a result of the comments.

4 CSR 240-3.545(7)

COMMENT: John Idoux, Senior Manager of Sprint filed comments submitting that the “issuing officer” has designated tariff responsibilities to a qualified representative and suggests the word “officer” be changed to “company designated representative”. Connie Wightman, President of Technologies Management, Inc. filed comments suggesting that when preparing and reading tariffs electronically, it is preferred to have all relevant page information at the top of the page as opposed to using footers. At the public hearing, Natelle Dietrich, witness for staff, suggested Section 7 be modified to state, “The name, title and address of the issuing officer or company designated representative shall appear in the marginal space at the bottom of the sheet.” Ms. Dietrich also indicated that while the Telecommunications Department did not object to the request that page information appear in either the header or the footer, the Data Center indicated to Ms. Dietrich that there are technical limitations that would need to be considered. For instance, there would need to be enough space in a header for the Data Center to enter a new effective date in event of extensions. The Data Center also has to place an electronic stamp on each tariff requiring approximately a three-quarter by three-quarter inch space. Jason Olson, Director Regulatory provided verbal testimony objecting to the suggestion of Technologies Management to resubmit tariffs with new effective dates.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered the comments and agrees that the suggested change to include “company designated representative” to the proposed rule is appropriate because the change will allow telecommunications providers more flexibility in preparing tariffs. However, in order to provide consistency in tariffs and avoid potential technical limitations, no changes will be made to the requirement that the name, title and address and issue and effective date appear at the bottom of the page or sheet.

4 CSR 240-3.545(8)

COMMENTS: Counsel for the Office of the Public Counsel filed written comments stating that this requirement is a reasonable requirement. Counsel for Southwestern Bell Telephone, LP d/b/a SBC Missouri filed comments objecting to the proposed rule and proposed it be modified in several sections. Jason Olson Director Regulatory testified at the public hearing that SBC proposes to add language at the beginning of section (8) as

follows: “Effective with tariff filings that are filed after – and then we’ll insert a date – [] tariffs for all telecommunications services shall contain the following.” SBC objects to subsection (B) because there is no provision to account for companies that did not get their authority to operate from the Commission. SBC proposes subsection (C) be modified to reflect the practice of waiving rules to companies seeking certification and competitive classification. SBC objects to subsection (D) because information on rates and services is readily available on company web sites or through customer service representatives. SBC objects to subsections (F) and (G) because they would require SBC to make extensive changes to its existing tariffs. SBC objects to subsection (H) because it would be more practical for it to list exchanges alphabetically by rate group rather than simply alphabetically.

R. Matthew Kohly, district manager of AT&T, filed comments objecting to subsection (G) because the section is unlawfully regulating the marketing and advertising of intrastate telecommunications services. AT&T recommends subsection (H) be limited only to tariffs for basic local exchange service. AT&T also suggests it should be allowed to list alphabetically by incumbent local exchange carrier. AT&T and Connie Wightman, President, Technologies Management, Inc., suggested that a competitive carrier be allowed to concur in the list of exchanges contained in the tariff of the incumbent.

At the public hearing, Natelle Dietrich, witness for staff, clarified that the intent of the rule was to regulate intrastate tariffs and what those tariffs look like. Ms. Dietrich supported SBC’s changes to Sections 8(B), (C), and (D). Ms. Dietrich did not support SBC’s proposed change to subsection (G), but instead proposed modifying the introductory paragraph of the section as follows: “Tariffs for all telecommunications services shall contain the following information and shall be updated as changes occur. For new tariffs filed after the effective date of this rule, information contained in Sections A through F will appear at the beginning of the company’s tariff.” For subsection (H), Ms. Dietrich proposed a change incorporating the written comments of multiple parties as follows: “For competitive and incumbent local exchange telecommunications carriers, a tariff shall contain an alphabetical list of the exchange area service by rate group if applicable, including state name if other than Missouri. Competitive local exchange carrier shall be permitted to provide an alphabetical list of the exchange area by incumbent local exchange carrier. Areas served with basic local exchange service must follow exchange boundaries of the incumbent local exchange telecommunications company and also must be no smaller than an exchange absent a ruling by the Commission under 392.200.2(b) RSMo 2000.” Ms. Dietrich objected to the recommendation that companies be allowed to concur in the exchange list of the incumbent.

RESPONSE AND EXPLANATION OF CHANGES: The Commission has considered the comments and agrees that the suggested changes to the proposed rule as supported by staff are appropriate because the changes will allow telecommunications providers more flexibility in preparing tariffs. The Commission agrees with Ms. Dietrich, witness for staff, that companies should not be allowed to concur in the exchange list of the incumbent. By having the list of exchanges in each tariff, it is easier for the Commission,

staff, the Office of the Public Counsel and others to search the tariffs and clearly understand the exchanges being served by the telecommunications carrier.

4 CSR 240-3.545(9)

COMMENTS: Counsel for Southwestern Bell Telephone, LP d/b/a SBC Missouri filed written comments objecting to the proposed rule to the extent it could be interpreted to require SBC to refile all its tariffs. John Idoux, Senior Manager of Sprint filed comments stating that the proposed language differs slightly from language used in Sprint tariffs. Sprint suggested alternate language. Connie Wightman, President, Technologies Management, Inc. filed comments suggesting that companies be allowed to file check sheets. At the public hearing, Ms. Dietrich, witness for staff, proposed this section be modified to address SBC and Sprint concerns. Ms. Dietrich also testified that check sheets are not used in Missouri because they are often inaccurate. Ms. Dietrich stated that it would not object if companies included check sheets in tariffs, but did not support incorporating check sheet language in the rule. Jason Olson, Director Regulatory SBC testified that the subsection should be prospective.

RESPONSE AND EXPLANATION OF CHANGES: The Commission has considered the comments and agrees that the suggested changes staff proposed at the public hearing are appropriate because the changes will allow telecommunications providers more flexibility in preparing tariffs. The Commission agrees with Ms. Dietrich, witness for staff, that check sheets could be filed in Missouri but will not be supported by rule language.

4 CSR 240-3.545(10)

COMMENTS: Connie Wightman, President, Technologies Management, Inc. filed comments suggesting this section be expanded such that “an authorized agent” be allowed to submit tariffs on a company’s behalf.

RESPONSE AND EXPLANATION OF CHANGES: The Commission has considered this comment and agrees that the suggested change will allow telecommunications providers more flexibility in submitting tariffs.

4 CSR 240-3.545(12)

COMMENTS: Counsel for the Office of the Public Counsel filed written comments underscoring its support of the revisions to subsection (12), noting the rule makes specific the minimum notice items that a telecommunications company must include in the documents accompanying its tariff filings that implement changes in the terms and conditions of its services, including rate changes. R. Matthew Kohly, district manager of AT&T; Carl Lumley, counsel for MCI; Richard Telthorst, president of the Missouri Telecommunications Industry Association; and Larry Dority, counsel for CenturyTel of Missouri, LLC and Spectra Communications Group, LLC; Counsel for Southwestern Bell Telephone, LP d/b/a SBC Missouri; John Idoux, Senior Manager of Sprint; Connie Wightman, president of Technologies Management, Inc.; and the Telecommunications Department Staff filed or concurred in comments objecting to the proposed rule as difficult and burdensome and recommended several changes. At the public hearing, Michael Dandino, Counsel for OPC testified strongly in favor of the rule change stating it was substantially as Public Counsel proposed to address information missing in the

present filings. Ms. Dietrich, staff witness, testified in opposition to this subsection as excessive and should not replace the review process that takes place when a company files tariffs. Ms. Dietrich noted the documents requested by OPC are review documents that should be available from any company upon request by Staff or OPC. Jason Olson, Director Regulatory for SBC added language not included in written comments proposing to modify the second sentence as follows: "A proposed change shall be submitted in the form of revised tariff accompanied by a cover letter. At least 10 days in advance of a tariff's effective date all telecommunications companies shall file [] a copy of any customer notice sent or required to be sent to the proposed changes." Mr. Olson also testified in support of SBC's written comments and addresses the comments of other commenters.

RESPONSE AND EXPLANATION OF CHANGES: The Commission has considered these comments and finds the arguments supporting a change to this section persuasive. The purpose of this section is to outline the information to be contained in the cover letter accompanying the filing. OPC seems to be requesting additional documentation, which also may be appropriate in certain circumstances. The proposed rule will be changed as suggested in staff's written comments. An additional requirement will be added to address the need for supporting documentation for filings.

4 CSR 240-3.545(13)

COMMENTS: R. Matthew Kohly, district manager of AT&T, filed comments suggesting the rule is duplicative and unnecessary. AT&T suggests companies should be permitted to use the clear and concise statement in EFIS in lieu of the cover letter. At the public hearing, staff witness, Natelle Dietrich, supported AT&T's comment and suggested the rule be modified to allow companies to use the EFIS statement in lieu of the cover letter as long as it provides all information contained in subsection (12).

RESPONSE AND EXPLANATION OF CHANGES: The Commission has considered this comment and finds the rule should be changed as suggested by staff witness, Natelle Dietrich, to allow companies more flexibility in making tariff filings

4 CSR 240-3.545(14)

COMMENTS: Richard Telthorst, president of the Missouri Telecommunications Industry Association; and Larry Dority, counsel for CenturyTel of Missouri, LLC and Spectra Communications Group, LLC; Counsel for Southwestern Bell Telephone, LP d/b/a SBC Missouri; John Idoux, Senior Manager of Sprint filed or concurred in comments suggesting that this subsection be modified to allow related tariff filings impacting multiple PSC Mo. Nos. to be linked together in EFIS for Commission processing and action. At the public hearing, Natelle Dietrich, staff witness, acknowledged that this request is reasonable, but explained that such a recommendation is not technically feasible in EFIS at this time. Ms. Dietrich suggested the subsection be modified to indicate that related tariff filings impacting multiple PSC Mo. Nos. tariffs shall be linked together when technically feasible. Jason Olson, Director Regulatory of SBC testified that SBC's proposed language is superior to the language of other parties because it makes it explicitly clear that tariff filings while filed separately are linked together.

RESPONSE AND EXPLANATION OF CHANGES: The Commission has considered this comment and recognizes the companies' objections. However, as staff witness, Ms. Dietrich testified, EFIS is not currently able to accommodate such a request. The subsection will be modified as proposed by Ms. Dietrich so that linking will be allowed at such time as it is technically feasible.

4 CSR 240-3.545(15)

COMMENTS: Counsel for the Office of the Public Counsel filed written comments supporting the customer notification requirements of this subsection. Carl Lumley, Counsel for MCI filed comments suggesting the cross-reference appears in error. Richard Telthorst, president of the Missouri Telecommunications Industry Association; and Larry Dority, counsel for CenturyTel of Missouri, LLC and Spectra Communications Group, LLC; Counsel for Southwestern Bell Telephone, LP d/b/a SBC Missouri; John Idoux, Senior Manager of Sprint filed or concurred in comments that a requirement that notice was sent is not always feasible. Several suggestions were proposed to allow notice to be sent in the future. R. Matthew Kohly, district manager of AT&T, filed comments suggesting the rule is duplicative and unnecessary. At the public hearing, staff witness, Natelle Dietrich, recognized the concerns of the parties, but proposed alternate language requiring a copy of the notice that was sent or will be sent to customer with a positive affirmation that the notice was sent or will be sent at least 10 days in advance of the rate's effective date.

RESPONSE AND EXPLANATION OF CHANGES: The Commission has reviewed the comments and recognizes the cross-reference to 4 CSR 240-33.040(3) should be corrected. The Commission finds the rule should also be changed as proposed by staff at the public hearing to address the companies' concerns about when customer notice is sent. The Commission declines to remove language as suggested by AT&T. Subsection (12) refers to customer notice for any changes resulting from tariff filings. Subsection (15) outlines customer notification requirements specifically associated with rate increases.

4 CSR 240-3.545(16)

COMMENTS: John Idoux, Senior Manager of Sprint filed comments recommending that for the introduction of new services, the companies provide the Commission with seven (7) days notice. At the public hearing, staff witness, Natelle Dietrich, objected to this proposal noting that tariff filing requirements are typically dictated by statutory guidelines.

RESPONSE: The Commission has considered the comments and agrees with staff witness Dietrich that statutes and rules typically require at least a 30-day tariff filing to provide notice to the Commission. No changes will be made to this section based on comments received.

4 CSR 240-3.545(17)

COMMENTS: Richard Telthorst, president of the Missouri Telecommunications Industry Association; and Larry Dority, counsel for CenturyTel of Missouri, LLC and Spectra Communications Group, LLC filed or concurred in comments suggesting the section be modified to indicate that when filed in compliance with a Commission order, the

proposed effective date of a tariff may be less than thirty (30) days. The commenters suggest the addition would avoid the additional time and expense associated with filing a separate motion to implement on less than thirty (30) days. Jason Olson, Director Regulatory of SBC testified that SBC does not object to MCI's proposed language.

RESPONSE: Staff believes that the rules require that the effective date be thirty (30) days from the date of filing but that the Commissioner has the authority to waive this requirement.

4 CSR 240-3.545(19)

COMMENTS: Richard Telthorst, president of the Missouri Telecommunications Industry Association; and Larry Dority, counsel for CenturyTel of Missouri, LLC and Spectra Communications Group, LLC; John Idoux, Senior Manager of Sprint; and Counsel for Southwestern Bell Telephone, LP d/b/a SBC Missouri filed or concurred in comments suggesting the rule be modified to indicate promotions are allowed for competitive services, not competitive companies. At the public hearing staff witness, Natelle Dietrich, supported these comments and suggested "companies" be replaced with "services" each time it appears in the subsection. Ms. Dietrich also recommended the parenthetical reference to ILECs be removed with this change.

RESPONSE AND EXPLANATION OF CHANGES: The Commission has considered the comments and finds the subsection should be modified to allow non-competitive companies with competitive services to offer promotions on those competitive services in the same manner as allowed for competitive companies.

4 CSR 240-3.545(20)

COMMENTS: Richard Telthorst, president of the Missouri Telecommunications Industry Association; and Larry Dority, counsel for CenturyTel of Missouri, LLC and Spectra Communications Group, LLC; John Idoux, Senior Manager of Sprint; and Counsel for Southwestern Bell Telephone, LP d/b/a SBC Missouri filed or concurred in comments noting that customer notice of name change should be at the company's discretion because the name change does not always rise to a change effecting customer recognition of the service provider. At the public hearing Natelle Dietrich, staff witness, suggested the last sentence of the subsection be modified to require customer notification for any name change affecting customer recognition of the company. Jason Olson, Director Regulatory of SBC testified that SBC supports the comments of Sprint and MCI.

RESPONSE AND EXPLANATION OF CHANGES: The Commission has considered the comments and finds the subsection should be modified as proposed by staff. The modification would allow the company discretion in sending customer notification, but would also allow the Commission, staff and the Office of the Public Counsel to request customer notification if there is a discrepancy in what is considered "customer recognition".

4 CSR 240-3.545(22)

COMMENTS: Counsel for the Office of the Public Counsel filed general comments on this subsection. Connie Wightman, president of Technologies Management, Inc. filed a comment recommending the rule be revised to accommodate different contacts for different operational areas. At the public hearing, staff witness, Natelle Dietrich, noted EFIS already provides a source for inputting various company contacts. The rule requires

the company to provide the Telecommunications Department with a regulatory contact, realizing that additional contacts could be found in EFIS if needed.

4 CSR 240-3.545 Filing Requirements for Telecommunication Company Tariffs

(3) A tariff will be considered as continuing in force until amended in the manner provided for in this rule. Unless specifically indicated in another section of this rule, tariff pages or sheets in effect as of the effective date of this rule are considered in compliance with the rule.

(7) The name, title and address of the issuing officer or company-designated representative shall appear in the marginal space at the bottom of the sheet. The marginal space at the bottom of the sheet shall also include the notation "Issued, ____ 20 ____; effective, ____ 20 ____".

(8) Tariffs for all telecommunications services shall contain the following information and shall be updated as changes occur. For new tariffs filed after the effective date of this rule, information contained in Sections A through F will appear at the beginning of the company's tariff.

(A) Company name as registered with the Missouri Secretary of State and as certificated by the Commission;

(B) If applicable, certification authority granted by the Commission, including case number(s);

(C) Waivers of Missouri Statutes and Commission Rules as granted by the Commission in connection with certification to provide service. Include case number(s) if other than case number(s) listed in subsection (B);

(D) The address, telephone number and website or e-mail address, along with any other suitable means of communications, to which the general public can make requests for information on rates and services;

(E) Table of Contents - Listing of general headings specifying sheet numbers and section numbers, if applicable;

(F) An explanation of reference marks, technical abbreviations and definitions of terms commonly used in the tariff;

(G) For each service, tariffs shall provide the following:

1. The name of the service, which clearly identifies the regulated intrastate offering, as it will be advertised and offered to the customer. Any service name that references a rate will accurately reflect the applicable intrastate rate(s) for the service;
2. A detailed description of the service offered;
3. The specific rates and charges in US dollars and the period of time covered by the rate or charge; and
4. Any terms and customer requirements that affect the rates or charges for the service.

(H) For competitive and incumbent local exchange telecommunications carriers, a tariff shall contain an alphabetical list of the exchange area service by rate group if applicable, including state name if other than Missouri. Competitive local exchange carrier shall be permitted to provide an alphabetical list of the exchange area by incumbent local exchange carrier. Areas served with basic local exchange service must follow exchange boundaries of the incumbent local exchange telecommunications company and also must be no smaller than an exchange absent a ruling by the Commission under 392.200.2(b) RSMo 2000.

(9) All new tariffs or all new pages added to tariffs shall be designated as an original sheet (page). All changes to tariffs must be designated substantially as follows: "First revised sheet (page) canceling (cancels, replaces) original sheet," "Second revised sheet (page) canceling (cancels, replaces) first revised sheet (page)," etc. and must contain reference marks denoting changes.

(10) A tariff shall be filed with the Commission by a duly-designated official or an authorized agent of the telecommunications company.

(12) Subject to Missouri Revised Statutes and Commission Rules, all telecommunications companies shall file with the Commission any changes in rates, charges or rules that affect rates or charges. A proposed change shall be submitted in the form of a revised tariff accompanied by a cover letter and a copy of any customer notice sent or required to be sent as a result of the proposed change. The cover letter should be limited to approximately one hundred (100) words or less. A copy of the cover letter and any proposed change shall be filed with the Commission or submitted electronically through the Commission's electronic filing and information system (EFIS), shall be served on the Office of the Public Counsel. A copy of the proposed change(s) shall be made available for public inspection and reproduction at the company's principal operating office or on its website. The cover letter shall identify each proposed change, provide a brief summary of each proposed change, and provide the requested effective date of the revised tariff. The summary shall identify each product, service, or category of services that will be affected by the proposed change and shall identify the change in the terms and conditions that the company proposes for that product, service, or category of services including any change or adjustment in the price or fee for that product or service. Upon request by Commission Staff or the Office of the Public Counsel, a telecommunications company shall provide supporting documentation for each change or adjustment in prices or fees. A request for supporting documentation shall be made within five (5) business days of the filing and responses shall be provided within five (5) business days of receipt of the request for supporting documentation. The documentation shall identify:

(A) The current price or fee;

(B) The proposed price or fee;

(C) Whether the change or adjustment results in an increase or decrease in price;

and,

(D) The percentage change in price.

(13) All telecommunications companies are required to provide a clear and concise statement as to the purpose of the filing when submitting any tariff filing electronically through EFIS. This statement may be in lieu of the cover letter required in 4 CSR 240-3.545(12) providing it contains all the information required of cover letters as outlined in 4 CSR 240-3.545(12). This statement shall be entered on the appropriate EFIS tariff submission screen.

(14) All telecommunications companies are required to submit revisions to each PSC MO No. as a separate filing to be assigned a separate tracking number in EFIS. Related tariff filings impacting multiple PSC MO No. tariffs shall be linked together, when technically feasible.

(15) All telecommunications companies are required to submit to the Commission with the tariff filing, a copy of the notification of rate increases that was sent or will be sent to customers pursuant to 4 CSR 240-33.040(4) and a positive affirmation in writing that the notice was sent or will be sent to customers at least 10 days in advance of the rate's effective date.

(19) Promotions are those service offerings that provide a reduction or waiver of a tariffed rate for a limited period of time. Promotions are allowed to go into effect after seven (7) days prior notice to the Commission for competitive services and after ten (10) days prior notice to the Commission for non-competitive services. Promotions must be offered under tariff, and prior notification to the Commission via a tariff filing is required. Promotions must have established start and end dates and must be offered in a non-discriminatory manner.

(20) In the case of a change of name, the telecommunications company shall issue immediately and file with the Commission an adoption notice substantially as follows: "The (name of telecommunications company) hereby adopts, ratifies and makes its own, in every respect as if the same had been originally filed by it, all tariffs filed with the Public Service Commission, State of Missouri, by the (name of telecommunications company) prior to (date) or the telecommunications company shall file a new tariff under the new name." Specific requirements for filings regarding company name changes are contained in Chapter 2 of the Commission's rules in rule 2.060. In addition to filing the items in 4 CSR 240-2.060, applicant must notify its customers at or before the next billing cycle of any name change affecting customer recognition of the company and file a copy of that notice with the adoption notice.

(22) Within six months of the effective date of the rule, all telecommunications companies shall update the Commission's electronic filing system with the current name, address, telephone number and e-mail address for the regulatory contact person within the telecommunications company. This information shall be updated in the electronic filing system within ten (10) business days of when changes occur.