



Commissioners
DANIEL Y. HALL
Chairman
STEPHEN M. STOLL
WILLIAM P. KENNEY
SCOTT T. RUPP
MAIDA J. COLEMAN

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>

SHELLEY BRUEGGEMANN
General Counsel
MORRIS WOODRUFF
Secretary
WESS A. HENDERSON
Director of Administration
NATELLE DIETRICH
Staff Director

November 2, 2016

Mike Downing, Director
Department of Economic Development
301 W. High Street
P.O. Box 1157
Jefferson City, Missouri 65102

RE: 4 CSR 240-4.015 General Definitions

Dear Mr. Downing:

The Public Service Commission proposes the rule 4 CSR 240-4.015, General Definitions. This rule will set forth the definitions of certain terms used in rules 4 CSR 240-4.017 through 4 CSR 240-4.050.

The proposed rule does not implicate the takings clause of the U.S. Constitution, because the proposed rule does not involve the taking of real property.

The Commission has performed the small business analysis required by Section 536.300, RSMo Supp. 2013, and includes the small business impact statement with this filing. Proposed Rule 4 CSR 240-4.015 does not impose any requirement that "will cause direct and significant economic burden upon a small business, or that is directly related to the formation, operation, or expansion of a small business." The Commission certifies that it has determined that the proposed rule will not have an economic impact on small businesses.

Please find enclosed a copy of the Proposed Rule, a Small Business Impact Statement and, for your signature, a Public Entity Cost Affidavit. Please review and sign the Affidavit at your earliest convenience so that the Commission may proceed with publishing the proposed rule.

Mr. Mike Downing
November 2, 2016
Page 2

Please let me know if you have any questions concerning this proposed rule.

Sincerely,

A handwritten signature in cursive script that reads "Michael Bushmann".

Michael Bushmann
Senior Regulatory Law Judge
(573) 751-4393 (telephone)
(573) 526-6010 (facsimile)
Michael.bushmann@psc.mo.gov (e-mail)

Enclosure

**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240—Public Service
Commission
Chapter 4—Standards of Conduct**

4 CSR 240-4.015 General Definitions

PURPOSE: This rule sets forth the definitions of certain terms used in rules 4 CSR 240-4.017 through 4 CSR 240-4.050.

- (1) Contested case – Shall have the same meaning as in section 536.010(4).
- (2) Commission – Means the Missouri Public Service Commission as created by Chapter 386.
- (3) Commissioner – Means one (1) of the members of the Missouri Public Service Commission.
- (4) Discussed case – A contested or noticed contested case that includes or will likely include, substantive issues that are the subject of an ex parte or extra-record communication regulated under this rule.
- (5) Ex parte communication – Any communication outside of the case process between a member of the office of the commission and any party, or the agent or representative of a party, regarding any substantive issue in, or likely to be in, a contested or noticed contested case. Ex parte communications shall not include a communication regarding general regulatory policy allowed under section 386.210.4, communications listed in 4 CSR 240-4.040, communications made thirty (30) days after the commission issues a final determination in a case, or communications that are de minimis or immaterial.
- (6) Extra-record communication – Any communication outside of the case process between a member of the office of the commission and any person not a party to a contested or noticed contested case regarding any substantive issue in or likely to be in that contested or noticed contested case. Extra-record communications shall not include communications regarding general regulatory policy allowed under section 386.210.4, communications with members of the general assembly or other government official allowed under section 386.210.5, communications listed in 4 CSR 240-4.040, communications made thirty (30) days after the commission issues a final determination in a case, communications between the office of the commission and the commission's non-party employees, or communications that are de minimis or immaterial.
- (7) Final determination – A decision of the commission that resolves a contested case, including all applications for rehearing and reconsideration.
- (8) Noticed contested case – Any case for which a notice of contested case has been filed in compliance with 4 CSR 240-4.017.

(9) Office of the commission – Commissioners, a commissioner, a member of the commission's advisory staff, or the commission's regulatory law judges.

(10) Party – Any applicant, complainant, petitioner, respondent, intervenor, or person with an application to intervene pending in a contested or noticed contested case before the commission. Commission staff and the public counsel are also parties unless they file a notice of their intention not to participate in the relevant proceeding within the period of time established for interventions by commission rule or order.

(11) Person – Any individual, partnership, company, corporation, cooperative, association, political subdivision, or any other entity or body.

(12) Public counsel – Shall have the same meaning as in section 386.700.

(13) Substantive issue – Facts, evidence, claims, or positions specific to a contested or noticed contested case that have been or are likely to be presented or taken in that case. The term substantive issue does not include procedural issues, unless those procedural issues are contested or likely to materially impact the outcome of a contested case.

**AFFIDAVIT
PUBLIC COST**

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

I, Mike Downing, 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 rule, 4 CSR 240-4.015, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

Mike Downing
Director
Department of Economic Development

Subscribed and sworn to before me this _____ day of _____, 2016, I am commissioned as a notary public within the County of _____, State of Missouri, and my commission expires on _____.

Notary Public

Small Business Regulator Fairness Board Small Business Impact Statement

Date: 10/27/2016

Rule Number: 4 CSR 240-4.015

Name of Agency Preparing Statement: Public Service Commission

Name of Person Preparing Statement: Michael Bushmann, Reg. Law Judge

Phone Number: 751-4393 **Email:** Michael.Bushmann@psc.mo.gov

Name of Person Approving Statement: Morris Woodruff, Secretary

Please describe the methods your agency considered or used to reduce the impact on small businesses *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

None. There is little impact on small businesses other than a requirement to comply with this ethics rule.

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

Involvement of small businesses or entities regulated by the Commission was not necessary for the development of this proposed rule.

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.

None.

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

Small businesses such as water and sewer companies, manufactured housing dealers and installers, and law firms will have to comply with this ethics rule. No adverse effect is anticipated.

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

None.

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

Small businesses such as water and sewer companies, manufactured housing dealers and installers, and law firms will have to comply with this ethics rule. No monetary cost or benefit is anticipated by the 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 XX

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.