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*Missouri Public Service Commission*

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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 240-4.017 General Provisions**

Dear Mr. Downing:

The Public Service Commission proposes the rule 4 CSR 240-4.017, General Provisions. This rule will set forth provisions that are applicable to both ex parte and extra-record communications.

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 240-4.017 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  
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Please let me know if you have any questions concerning this proposed rule.

Sincerely,

A handwritten signature in cursive script that reads "Michael D. 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 240-4.017 General Provisions**

*PURPOSE: This rule sets forth provisions that are applicable to both ex parte and extra-record communications.*

(1) Any person that intends to file a case likely to be a contested case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case. Such notice shall detail the type of case and issues likely to be before the commission and shall include a summary of any communication regarding substantive issues likely to be in the case between the filing party and the office of the commission that occurred in the ninety (90) days prior to filing the notice. The filing of such notice shall initiate a new noticed contested case and be assigned an appropriate case designation and number. If the expected contested case filing is subsequently made, it shall be filed in the noticed contested case. If the expected contested case filing is not made within one hundred eighty (180) days, the noticed contested case shall close.

(A) The commission may reject any filing not in compliance with this section.

(B) This section shall not apply to small formal complaints under commission rule 4 CSR 240-2.070 or small utility rate cases under commission rule 4 CSR 240-3.050.

(C) This section shall not apply to formal complaints under commission rule 4 CSR 240-2.070. However, formal complaints shall include, contemporaneous with the filing initiating the complaint, a summary of any communication regarding substantive issues likely to be in the case between the filing party and the office of the commission that occurred in the sixty (60) days prior to filing the complaint.

(D) A party may request a waiver of this section for good cause. Good cause for waiver may include, among other things, a verified declaration from the filing party that it has had no communication with the office of the commission within the prior one hundred fifty (150) days regarding any substantive issue likely to be in the case or that circumstances prevented filing the required notice and delaying the filing for sixty (60) days would cause harm.

(2) Unless properly admitted into evidence in subsequent proceedings, no ex parte or extra-record communication shall be considered as part of the record on which the commission reaches a decision in a contested case.

(3) A utility regulated by the commission that offers a tour of its facilities to the office of the commission shall also offer the office of the public counsel an opportunity to participate in that tour, and the tour shall be posted on a public calendar for each commissioner who plans to participate.

(4) Pursuant to section 386.210.4, nothing in this rule shall be construed as imposing any limitation on the free exchange of ideas, views, and information between any person and the

commission or any commissioner, provided that such communications relate to matters of general regulatory policy and do not address substantive issues in or likely to be in a contested or noticed 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 240-4.017, 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 240-4.017

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.*