

TITLE 20 – DEPARTMENT OF COMMERCE AND INSURANCE
Division 4240 – Public Service Commission
Chapter 2 – Practice and Procedure

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.410, RSMo 2016, the commission amends a rule as follows:

20 CSR 4240-2.115 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2024 (49 MoReg 651). The section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended May 31, 2024, and the commission held a public hearing on the proposed amendment on June 4, 2024. The commission received three (3) written comments. Nine (9) comments were received at the hearing.

COMMENT #1: Public Counsel Marc Poston on behalf of the Office of the Public Counsel (OPC) filed written comments and John Clizer for OPC provided comments at the hearing. OPC commented that the phrase “with specificity” might cause issues with applying the rule as amended. OPC suggests the commission omit the phrase “with specificity.” OPC proposes alternative language requiring the objector to identify the specific provisions of the stipulation and agreement that are objected to and provide a reason for each objection. OPC also opposes the proposed changes put forth by Spire Missouri Inc. in its written comments.

RESPONSE AND EXPLANATION OF CHANGES: The Commission agrees with the comment of OPC and will adopt a slight change to subsection (2)(B) similar to the language suggested by OPC to clarify the rule.

COMMENT #2: Sreenivasa Rao Dandamudi on behalf of Spire Missouri Inc. filed written comments and Scott Weitzel for Spire provided comments at the hearing in support of the amendment. Spire also provided additional amendment language to amend subsections (2)(B) and (2)(D) with regard to limiting the issues a party can object to and the amount of deference to be given to objections.

RESPONSE: There was significant opposition to Spire’s proposed changes and the commission will decline to make such substantive changes to the rule without first publishing the changes for comment and further consideration. No change was made as a result of this comment.

COMMENT #3: John Coffman on behalf of the Consumers Council of Missouri filed written comments and commented at the hearing generally in support of the amendment. Consumers Council states that requiring specificity when a party objects to a non-unanimous stipulation and agreement is good practice. Consumers Council agrees with OPC's proposed changes. Consumers Council opposes Spire's proposed amendments to the rule because they are beyond the scope of this rulemaking proceeding and would infringe on the due process rights of some parties in commission proceedings. It is Consumers Council's opinion that the commission should hold a "workshop" proceeding before beginning any substantial change to commission rules.

RESPONSE: The commission is making changes similar to the language suggested by OPC and is not making the changes proposed by Spire. No change has been made as a result of this comment.

COMMENT #4: Tim Opitz on behalf of the Midwest Energy Consumers Group (MECG) commented and provided written reply comments at the hearing. MECG stated that it had no strong opposition to the proposed amendment. MECG commented that it supports the comments of OPC and Consumers Council, and opposes the comments of Spire. MECG explained in detail why it was opposed to Spire's additional proposed rule changes.

RESPONSE: The commission is making changes similar to the language suggested by OPC and is not making the changes proposed by Spire. No other change has been made as a result of this comment.

COMMENT #5: James Owen on behalf of Renew Missouri commented at the hearing that Renew Missouri had no opposition to the amendment. Renew Missouri also commented that the commission should have more collaboration with the stakeholders before proceeding with rule changes. Renew Missouri commented that the commission should allow liberal participation in and objections to stipulations and agreements.

RESPONSE: The commission thanks Renew Missouri for its comments. No change was made as a result of this comment.

COMMENT #6: Diana Plescia on behalf of the Missouri Industrial Energy Consumers (MIEC) agrees with OPC's comments and opposes the changes proposed in the written comments of Spire. MIEC commented that because it is an association of large industrial customers and not every member participates in each case, it may take months to fully determine what, if any, specific position one of its members will take in a commission case. Therefore, MIEC opposes Spire's proposed additional changes to the rule.

RESPONSE: The commission thanks MIEC for its comments. No change was made as a result of this comment.

COMMENT #7: Terry Jarrett on behalf of the Missouri School Boards Association (MSBA) commented at the hearing that it agreed with the comments of Consumers Council, Renew Missouri, OPC, and MECG.

RESPONSE: The commission thanks MSBA for its comments. No change was made as a result of this comment.

COMMENT #8: Peggy Whipple on behalf of the Missouri Electric Commission (MEC) commented at the hearing in opposition to the amendment. MEC stated that it agreed with the comments of Consumers Council, Renew Missouri, OPC, MEEG, and Evergy.

RESPONSE: The commission thanks MEC for its comments. No change was made as a result of this comment.

COMMENT #9: Scott Stacey with Staff Counsel's Office of the commission commented in support of the amendment. Mr. Stacey commented that the commission has legal authority to make rules governing the proceedings before the commission. Mr. Stacey commented that the amendment would not prohibit any party from making objections, but would require the parties objecting to clearly state which provisions it found objectionable and why.

RESPONSE: The commission agrees with Mr. Stacey's comments that the proposed amendment will not limit objections to stipulations and agreement but will help to clarify what those objections are. No change was made as a result of this comment.

20 CSR 4240-2.115 Stipulations and Agreements

(2) Nonunanimous Stipulations and Agreements.

(B) Each party shall have seven (7) days from the filing of a nonunanimous stipulation and agreement to file an objection to the nonunanimous stipulation and agreement. The objecting party shall identify the specific provision of the stipulation and agreement that is objected to and provide a reason for each objection. Failure to file a timely objection shall constitute a full waiver of that party's right to a hearing.