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SECRETARY OF STATE
ADMINISTRATIVE RULES DIVISION

AX-2000-111

REBECCA MCDOWELL COOK
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

A "SEPARATE" rule transmittal sheet must be used for EACH individual rulemaking.

A. Rule Number 4 CSR 240-2.050
Diskette File Name 2.050 rescission (Word 97 format)
Name of Person to call with questions about this rule:
Context Vicky Ruth Phone 573-522-8459 FAX 573-751-1847
Data Entry Judy Pope Phone 573-751-6526 FAX 573-751-1847
Interagency Mailing Address Truman Bldg., 301 W. High St., Room 530, Jefferson City, MO
Statutory Provision for Rulemaking
Authority § 386.410 Provide Most Current RSMo Year 1998
Date Filed With the Joint Committee on Administrative Rules Exempt per Sections 536.024 and 536.037, RSMo Supp. 1998, and Executive Order No. 97-97 (June 27, 1997)

B. CHECK, IF INCLUDED: FORMS, List by Mo-Form Number, # of Pages
☒ Cover Letter _____
_____ Affidavit _____
_____ Cost Statements _____
_____ Public Entity Fiscal Note OTHER _____
_____ Private Entity Fiscal Note _____

C. RULEMAKING ACTION TO BE TAKEN
_____ Emergency Rulemaking, Must Specify Effective Date
_____ Proposed Rulemaking
☒ Order of Rulemaking (MUST complete page 2 of this transmittal)
_____ Withdrawal (Rule, Amendment, Rescission or Emergency)
_____ Rule Action Notice
_____ In Addition _____

D. SPECIFIC INSTRUCTIONS: In this space indicate any special instructions (e.g., specify publication date preference, identify material incorporated by references, etc:)

E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-2.050

1a. Effective Date for the Order

Statutory 30 days ☒ or later specific date _____

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

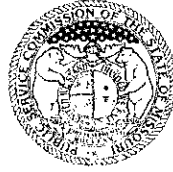
YES _____ NO ☒

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 or rulemaking, indicating the specific section, subsection, subparagraph, part, etc., where each change is found.

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.



Commissioners

SHEILA LUMPE
Chair

HAROLD CRUMPTON

CONNIE MURRAY

ROBERT G. SCHEMENAUER

M. DIANNE DRAINER
Vice Chair

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.ecodev.state.mo.us/psc/>

January 21, 2000

GORDON L. PERSINGER
Acting Executive Director
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

Honorable Rebecca McDowell Cook
Secretary of State
600 West Main Street
Jefferson City, Missouri 65101

ATTENTION: Administrative Rules Division

I do hereby certify that the attached are accurate and complete copies of the Orders of Rulemaking lawfully submitted by the Missouri Public Service Commission for filing this 21st day of January, 2000.

- Rules: 4 CSR 240-2.010 – Definitions
4 CSR 240-2.040 – Practice Before the Commission
4 CSR 240-2.050 – Computation of Effective Dates
4 CSR 240-2.060 – Applications
4 CSR 240-2.065 – Tariff Filings Which Create Docketed Cases
4 CSR 240-2.070 – Complaints
4 CSR 240-2.075 – Intervention
4 CSR 240-2.080 – Pleadings
4 CSR 240-2.090 – Discovery and Prehearings
4 CSR 240-2.100 – Subpoenas
4 CSR 240-2.110 – Hearings
4 CSR 240-2.115 – Nonunanimous Stipulations and Agreements
4 CSR 240-2.116 – Dismissal
4 CSR 240-2.120 – Presiding Officers
4 CSR 240-2.125 – Procedures for Use of a Presiding Officer
in Settlement Negotiations
4 CSR 240-2.130 – Evidence
4 CSR 240-2.140 – Briefs and Oral Arguments
4 CSR 240-2.150 – Orders of the Commission
4 CSR 240-2.160 – Rehearings or Reconsideration
4 CSR 240-2.170 – Forms
4 CSR 240-2.180 – Rulemaking
4 CSR 240-2.200 – Small Company Rate Increase Procedure

Honorable Rebecca McDowell Cook
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Statutory authority: Section 386.410, RSMo Supp. 1998

Missouri Public Service Commission Case Nos.: AX-2000-108, AX-2000-110 through AX-2000-116,
and AX-2000-118 through AX-2000-131

If there are any questions, please contact: *(These rules are assigned to several regulatory law judges. Please refer to the transmittal form for the name, phone number and fax number of the regulatory law judge assigned to a particular rule.)*

BY THE COMMISSION

A handwritten signature in cursive script that reads "Dale Hardy Roberts".

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

DHR:jp

Enclosures: Packets for 22 Orders of Rulemaking
Orders of Rulemaking in Word 97 format on 3-1/2" diskette

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo Supp. 1998, the commission rescinds a rule as follows:

4 CSR 240-2.050 Computation of Effective Dates is rescinded.

A notice of proposed rulemaking containing the text of the proposed rescission was published in the *Missouri Register* on Oct. 1, 1999 (24 MoReg 2320-2321). No changes were made in the text of the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. Although most of the comments received were directed to the proposed rule, some comments are pertinent to the rescission and are noted here.

COMMENT: One comment notes that the former section (2) relating to the calculation of time if the allowed time is less than seven days should not be deleted. Deleting this provision would effectively reduce the time to respond by two or three days under the present rule practice. Clearly, four or five days is an unreasonable response time in many situations.

COMMENT: Another comment indicates that this proposed rule describes how periods of time prescribed by the Commission are to be computed. Section (2) of the current version of the rule provides an exception in such computations for periods of time less than seven days. In such cases, Saturdays, Sundays or legal holidays falling within the period are excluded from computation and the period is extended accordingly. The new rule eliminates this exception. Eliminating this exception will unduly shorten the time for a party to perform the required act (e.g., prepare and submit a responsive filing). As it is, parties routinely lose two to four days due to delay in mail delivery. In some cases, the delay has been five to seven days. Eliminating the current computational exception in section (2) could cause a party to lose most (and in some cases all) of its time to prepare and file a responsive pleading. The commenter requests that the Commission retain section (2) of the current rule 2.050.

RESPONSE: The Commission has reviewed these comments and finds that the deletion of former section (2) is appropriate. Section (12) of 4 CSR 240-2.080, Pleadings, specifically addresses the time allowed for responses to motions or other pleadings. However, the Commission has determined that 4 CSR 240-2.050 should be clarified by deleting the word "order" in the section (1). Section (2) shall be clarified by adding the phrase "the day the order was issued shall not be included, and" after the words "In computing the effective date of any order of the commission". In addition, the rule is more properly titled "Computation of Time" and not "Computation of Effective Dates," so the title has been revised. Therefore, the Commission has amended the rule but not in the manner requested by the comments.

COMMENT: One comment opposes the deletion of the phrase "except after the effective date of a tariff" in subsection (3)(B). Once a tariff is effective, it becomes law and cannot be modified without restarting the tariff process. The Public Service Commission cannot do by rule what the general law does not permit it to do.

RESPONSE: The Commission believes the deleted phrase is unnecessary. No changes were made to the rule as a result of this comment.