

**Small Business Regulatory Fairness Board
Small Business Statement
(After Public Hearing)**

Date: 3/19/10

Rule Number: 4 CSR 240-4.020

Name of Agency Preparing Statement: Public Service Commission

Name of Person Preparing Statement: Nancy Dippell, Deputy Chief Regulatory Law Judge

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Name of Person Approving Statement: Steven Reed, Secretary/General Counsel

Hearing Date: January 22, 2010

The Commission originally filed this proposed rule and determined there was no fiscal impact on private entities. After comment and hearing the Commission determined certain changes were necessary including an added filing requirement. Because of this added requirement, the Commission determined that private entities and small businesses (small water and sewer companies regulated by the Commission) may have a fiscal impact because of new section (2) of the rule. Therefore, along with its Order of Rulemaking, the Commission is submitting a Revised Private Entity Fiscal Note and a small business impact statement pursuant to section 536.303, RSMo.

(1) Description of how the opinions or comments from affected small businesses were solicited:

All entities regulated by the Commission were allowed an opportunity to participate in the development of this proposed rule. Before filing the proposed rule all regulated entities were invited to attend several discussion groups and to file comments in a working docket regarding the rule. Once the proposed rule was published in the Missouri Register, written comments and testimony were solicited from all Commission-regulated entities.

(2) A summary of the public and small business comments:

There were no individual or small business comments. There were written comments and testimony given by the Office of the Public Counsel on behalf of the public. Those comments were generally in favor of the rule, but favored making the rule more stringent regarding what must be recorded and reported.

(3) A summary of the agency's response to those comments:

In response to the Office of the Public Counsel and other comments, the Commission decided to include more stringent requirements (though not quite as stringent as Public Counsel advocated) for reporting ex parte and extra-record communications. As part of the rule revisions, the Commission adopted new section (2) of the rule. Section (2) will require any regulated entity to file a notice with the Commission 60 days prior to the time it expects to file a contested case or an anticipated contested case, unless a waiver is granted.

(4) The number of persons who attended the public hearing, testified at the hearing, and submitted written comments.

Other than the commissioners and their staff, seven people attended the public hearing in person. The hearing was broadcast over the Internet and therefore, the Commission cannot determine the number of people who may have watched or listened to the hearing outside of the hearing room.

Seven people testified at the hearing.

Four entities or organizations filed written comments.

If a request to change the proposed rule was made at the hearing in a way that affected small business, a statement of the reasons for adopting the proposed rule without the requested change:

Public Counsel requested that the change made in section (2) of the rule require a notice of a contested case be filed at least 120 days prior to the contested case being filed. The Commission lengthened the filing requirement from 30 days to 60 days in response to the comments determining that this was a more reasonable time period. Including another 60 days in the requirement would have meant more required filings for all Commission-regulated entities and therefore a higher cost to small businesses as well.

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