

FILED
March 4, 2010
Data Center
Missouri Public
Service Commission



Robin Carnahan
Secretary of State

**Administrative Rules Division
Rulemaking Transmittal Receipt**

Rule ID: 12599
Date Printed: 3/2/2011
Rule Number: 4 CSR 240-2.010
Rulemaking Type: Proposed Amendment
Date Submitted to Administrative Rules Division: 3/2/2011
Date Submitted to Joint Committee on Administrative Rules: 3/2/2011

Name of Person to Contact with questions concerning this rule:

Content: Nancy Dippell

Phone: 1-4393

Email: nancy.dippell@psc.mo.gov

Fax:

RuleDataEntry:

Phone:

Email:

Fax:

Included with Rulemaking:

Cover Letter

3/02/2011

Affidavit for public cost

3/02/2011

[Print](#)

[Close](#)

Robin Carnahan

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

RECEIVED

MAR 02 2011

SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-2.010

COPY

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:

Content Nancy Dippell Phone 573-751-4393 FAX

Email address Nancy.dippell@psc.mo.gov

Data Entry same Phone FAX

Email address

Interagency mailing address Public Service Commission, 9th Fl, Gov.Ofc Bldg, JC, MO

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☒ Proposed Rulemaking

☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Order of Rulemaking

Effective Date for the Order

☐ Statutory 30 days OR Specific date

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☒ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Amending Sections (5), (6), (8), (13), and (15); adding (21); renumbering sections (10), (11), (12), (14), (16), (18), (19), (20), (21), and (22); and deleting (9) and (17).

Small Business Regulatory
Fairness Board (DED) Stamp

SMALL BUSINESS
REGULATORY FAIRNESS BOARD

MAR 02 2011

RECEIVED

JCAR Stamp

JOINT COMMITTEE ON

MAR 02 2011

ADMINISTRATIVE RULES



Commissioners

KEVIN GUNN
Chairman

ROBERT M. CLAYTON III

JEFF DAVIS

TERRY M. JARRETT

ROBERT S. KENNEY

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>

WESS A. HENDERSON
Executive Director

VACANT
Director, Administration and
Regulatory Policy

ROBERT SCHALLENBERG
Director, Utility Services

NATELLE DIETRICH
Director, Utility Operations

STEVEN C. REED
Secretary/General Counsel

KEVIN A. THOMPSON
Chief Staff Counsel

March 2, 2011

Robin Carnahan
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-2.010 Definitions

Dear Secretary Carnahan,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed rulemaking lawfully submitted by the Missouri Public Service Commission.

The Public Service Commission has determined and hereby certifies that this proposed rulemaking will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 536.017, RSMo 2000, that the proposed rulemaking does not constitute a taking of real property under relevant state and federal law, and that the proposed rulemaking conforms to the requirements of 1.310, RSMo, regarding user fees.

The Public Service Commission has determined and hereby also certifies that this proposed rulemaking complies with the small business requirements of 1.310, RSMo, in that it does not have an adverse impact on small businesses consisting of fewer than twenty-five full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo, by exempting any small business consisting of fewer than twenty-five full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

Statutory Authority: section 386.410, RSMo 2000

If there are any questions regarding the content of this proposed rulemaking, please contact me at the address and number below.

Sincerely,

A handwritten signature in black ink, reading "Nancy Dippell". The signature is fluid and cursive, with the first name "Nancy" and last name "Dippell" clearly distinguishable.

Nancy Dippell, Deputy Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-4393
Nancy.dippell@psc.mo.gov

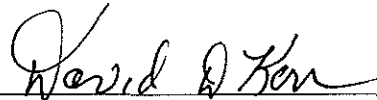
Enclosure

AFFIDAVIT

PUBLIC COST

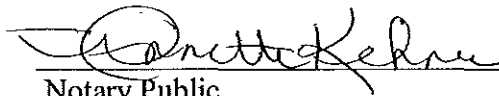
STATE OF MISSOURI)
)
COUNTY OF COLE)

I, David Kerr, 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 amendment, 4 CSR 240-2.010, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



David Kerr
Director
Department of Economic Development

Subscribed and sworn to before me this 18th day of February, 2011, I am commissioned as a notary public within the County of COLE, State of Missouri, and my commission expires on 17 July 2011.



Notary Public

ANNETTE KEHNER Notary Public - Notary Seal State of Missouri Commissioned for Cole County My Commission Expires: July 17, 2011 Commission Number: 07492656

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

RECEIVED

MAR 02 2011

SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED AMENDMENT

4 CSR 240-2.010 Definitions The commission is amending sections (5), (6), (8), (13), and (15), adding a new section (21), renumbering sections (10), (11), (12), (14), (16), (18), (19), (20), (21), and (22), and deleting sections (9) and (17).

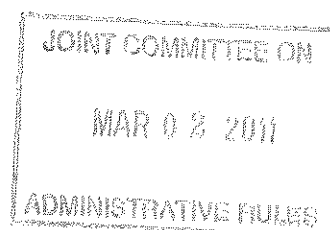
PURPOSE: This amendment adds the definition of "staff counsel" and changes the definition of "commission staff" and "general counsel" to better define those terms and to incorporate changes to the commission's organizational structure. The amendment also deletes the definitions of highly confidential and proprietary information because those definitions are more clearly defined elsewhere in this chapter. The definition of "pleading" and "presiding officer" are also revised to make them more inclusive.

(5) Commission staff means all personnel employed by the commission whether on a permanent or contractual basis *[who are not attorneys in the general counsel's office, who are not members of the commission's research department, or who are not law judges.]* **except commissioners; commissioner support staff, including technical advisory staff; personnel in the secretary's office; and personnel in the general counsel's office, including personnel in the adjudication department. Employees in the staff counsel's office are members of the commission staff.**

(6) Complainant means the commission, any person, corporation, municipality, political subdivision, the Office of the Public Counsel, the commission staff through the *[general] staff counsel's office*, or public utility who files a complaint with the commission.

(8) General counsel means the attorney who serves as counsel to the commission and includes the general counsel and all other attorneys who serve in the office of the general counsel **but does not include attorneys employed in the staff counsel's office. The general counsel appears for the commission and performs all duties and services as attorney and counsel to the commission which the commission may reasonably require.**

[(9) Highly confidential information may include material or documents relating directly to specific customers; employee-sensitive information; marketing analyses or other market-specific information relating to services offered in competition with others; reports, work papers or other documentation related to work produced by internal or external auditors or consultants; strategies employed, or to be employed, or under consideration in contract negotiations.]



(~~[10]~~**9**) Oath means attestation by a person signifying that he or she is bound in conscience and by the laws regarding perjury, either by swearing or affirmation to tell the truth.

(~~[11]~~**10**) Party includes any applicant, complainant, petitioner, respondent, intervenor or public utility in proceedings before the commission. Commission staff and the public counsel are also parties unless they file a notice of their intention not to participate within the period of time established for interventions by commission rule or order.

(~~[12]~~**11**) Person includes a natural person, corporation, municipality, political subdivision, state or federal agency, and a partnership.

(~~[13]~~**12**) Pleading means any *[application, complaint, petition, answer, motion, staff recommendation, or other similar written document, which is not a tariff or correspondence, and which is filed in a case. A brief is not a pleading under this definition.]* **written document, including any exhibits or other attachments, filed with the commission that seeks a specific action or remedy, except that briefs and tariffs are not pleadings under this definition.**

(~~[14]~~**13**) Political subdivision means any township, city, town, village, and any school, road, drainage, sewer and levee district, or any other public subdivision, public corporation or public quasi-corporation having the power to tax.

(~~[15]~~**14**) Presiding officer means a commissioner, or a law judge licensed to practice law in the state of Missouri and appointed by the commission to preside over a case **or any portion of a case.**

(~~[16]~~**15**) Public counsel means the Office of the Public Counsel as created by the Omnibus State Reorganization Act of 1974, and includes the assistants who represent the public before the commission.

[(17) Proprietary information may include trade secrets, as well as confidential or private technical, financial and business information.]

(~~[18]~~**16**) Public utility includes every pipeline corporation, gas corporation, electrical corporation, telecommunications corporation, water corporation, heat or refrigeration corporation, sewer corporation, any joint municipal utility commission pursuant to section 386.020, RSMo which is regulated by the commission, or any other entity described by statute as a public utility which is to be regulated by the commission.

(~~[19]~~**17**) Respondent means any person as defined herein or public utility subject to regulation by the commission against whom any complaint is filed.

(~~[20]~~**18**) Rule means all of these rules as a whole or the individual rule in which the word appears, whichever interpretation is consistent with the rational application of this chapter.

(~~21~~19) Settlement officer means a presiding officer who has been delegated to facilitate the settlement of a case.

(~~22~~20) Schedule means any attachment, table, supplement, list, output, or any other document affixed to an exhibit.

(21) Staff counsel means any attorney employed to represent the staff of the commission in proceedings before the commission. For administrative purposes only, the staff counsel's office is considered part of the general counsel's office and the chief staff counsel reports to the general counsel. However, the staff counsel's office performs its advocacy functions independently, under the direction of the chief staff counsel in consultation with the executive director and the directors of the operations and utility services divisions.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Amended: Filed Aug. 17, 1998, effective March 30, 1999. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000. Amended: Filed _____.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

PUBLIC ENTITY COST: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Steven C. Reed, Secretary of the Commission, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices no later than May 16, 2011, and should include a reference to Commission Case No. AX-2011-0094. Comments may also be submitted via a filing using the Commission's electronic filing and information system at <http://www.psc.mo.gov/case-filing-information>. A public hearing regarding this proposed amendment is scheduled for May 19, 2011, at 10:00 a.m., in Room 310 of the commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public

Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

Small Business Regulatory Fairness Board

Small Business Impact Statement

Date: 1-27-11

Rule Number: 4 CSR 240-2.010 Definitions

Name of Agency Preparing Statement: Public Service Commission

Name of Person Preparing Statement: Nancy Dippell

Phone Number: 573-751-4393 Email: nancy.dippell@psc.mo.gov

Name of Person Approving Statement: Morris Woodruff, Chief Regulatory Law Judge, Public Service Commission

Please describe the methods your agency considered or used to reduce the impact on small businesses: The changes to this definitions rule will not have an impact on small business other than to make the rules easier to understand. The changes to the definition section only reflect organizational changes to the agency and clarification of specific language to mirror changes found elsewhere in the Public Service Commission's rules. The Commission held a roundtable discussion on November 30, 2010, and invited the public to comment informally on the draft of the proposed rules. The Commission subsequently incorporated some changes from that roundtable into the rules for clarity and ease of use.

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

These are amendments to procedural rules. The majority of this rulemaking has been generated internally. Comments have been noted from practitioners before the agency and utilities and ratepayers involved with the agency on an informal basis and incorporated into this rule. The Commission held a roundtable discussion on November 30, 2010, and invited the public to comment informally on the draft of the proposed rules.

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.

There is no monetary cost to the agency or other agency for this procedural rule. There are no fees imposed by this rule.

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

This is a definitions rule which does not have any requirements for small businesses. No small businesses will be adversely affected by this rule.

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

This is a definitions rule which does not require compliance.

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

All utilities, large and small, and all ratepayers, residential or commercial, will benefit from the definitions being made more clear and reflecting the actual organizational structure of the Commission.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes___ No_X__

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.