

FILED
March 4, 2011
Data Center
Missouri Public
Service Commission



Robin Carnahan
Secretary of State

**Administrative Rules Division
Rulemaking Transmittal Receipt**

Rule ID: 12617
Date Printed: 3/2/2011
Rule Number: 4 CSR 240-2.140
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: na
RuleDataEntry:	Phone:	Email:	Fax:

Included with Rulemaking:

Cover Letter	3/02/2011
Affidavit for public cost	3/02/2011

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Administrative Rules Division

RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-2.140

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 (1), (2), and (3); adding (5); renumbering (3); and deleting (4).

Small Business Regulatory
Fairness Board (DED) Stamp

SMALL BUSINESS
REGULATORY FAIRNESS BOARD

MAR 02 2011

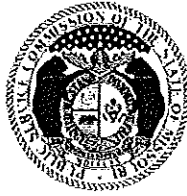
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JCAR Stamp

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

NATELE 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 240-2.140 Briefs and Oral Arguments

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 cursive script that reads "Nancy Dippell".

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**

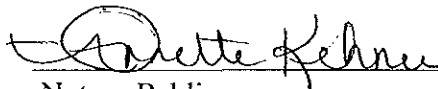
STATE OF MISSOURI)
)
COUNTY OF COLE)

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 240-2.140, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

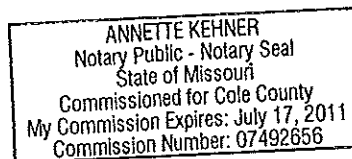


David Kerr
Director
Department of Economic Development

Subscribed and sworn to before me this 18th day of Feb., 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



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

PROPOSED AMENDMENT

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SECRETARY OF STATE
ADMINISTRATIVE RULES

4 CSR 240-2.140 Briefs and Oral Arguments The commission is amending sections (1), (2), and (3), adding a new section (5), renumbering section (3), and deleting section (4).

PURPOSE: This rule is amended to clarify when and how briefs and other post-hearing filings can be made and to eliminate the requirement for sending service copies of briefs by overnight mail.

(1) **In any case, [T]he commission or presiding officer shall determine whether the parties may file briefs or present oral argument, or both, [in any case]and may establish time and page limits.**

(2) Unless otherwise ordered by the commission or presiding officer, *[when briefs are to be filed in any case, the parties shall have]* **post-hearing briefs shall be filed no later than twenty (20) days after the date on which the complete transcript of the hearing is filed[to file their initial briefs].**

(3) Unless otherwise ordered by the commission or presiding officer, the parties shall have ten (10) days after the filing of the initial briefs to file their reply briefs. *[When a reply brief is due ten (10) days after filing of initial briefs, the initial briefs shall be sent to all parties by overnight mail or hand-delivered on the day of filing or the next day.]*

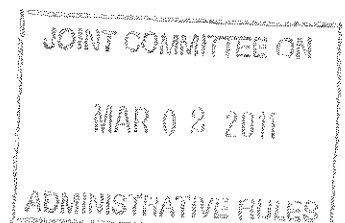
[(3)4] Unless otherwise ordered by the commission or presiding officer, the time allowed for oral argument shall be--

[(4) The commission may at its discretion order the parties to file suggested findings of fact, conclusions of law, and ordered paragraphs.]

(5) **Unless otherwise ordered by the commission or presiding officer, the parties may file pre-hearing briefs, statements of position, and proposed findings of fact and conclusions of law.**

AUTHORITY: section 386.410, RSMo 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. 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 240-2.140 Briefs and Oral Arguments

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 Commission relied on its past experience with this rule and comments from practitioners before the Commission in deciding to make amendments to this rule. The rule is being amended to clarify when and how briefs and other post-hearing filings can be made and to eliminate the requirement for sending service copies of some briefs by overnight mail.

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

The Commission relied on its past experience with this rule and comments from practitioners before the Commission in deciding to make amendments to 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. The Commission subsequently incorporated some changes from that roundtable into the rules for clarity and ease of use.

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 are no monetary costs or benefits to any agency associated with this amendment. No fees will be imposed or collected as a result of this rule.

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

No small businesses are "required" to comply with the rule, as the rule is only implemented if there is a request for records. However, if a small business requests records they will be charged the relevant copying fees.

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

There are no costs associated with compliance. This amendment will save money in the very few instances when reply briefs are required to be submitted on an expedited basis because overnight mail will no longer be required.

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

Any party appearing before the Commission that would have been required to mail its brief by overnight mail will benefit from no longer being required to do so.

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.