

John R. Ashcroft

**Secretary of State
Administrative Rules Division**

RULE TRANSMITTAL

Administrative Rules Stamp

Rule Number 4 CSR 240-4.050

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

Name of person to call with questions about this rule:

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TYPE OF RULEMAKING ACTION TO BE TAKEN

- ☐ Emergency rulemaking, include effective date
☐ Proposed Rulemaking
☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration
☐ Request for Non-Substantive Change
☐ Statement of Actual Cost
☒ 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:

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON
APR 06 2017
ADMINISTRATIVE RULES



GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

ERIC R. GREITENS
GOVERNOR

P.O. Box 720
(573) 751-3222

March 29, 2017


Daniel Hall
Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, Missouri 65102

Dear Daniel:

This office has received your rulemaking for ex parte / extra-record communications: 4 CSR 240-4.015; 4 CSR 240-4.017; 4 CSR 240-4.020; 4 CSR 240-4.030; 4 CSR 240-4.040; and 4 CSR 240-4.050.

Executive Order 17-03 requires this office's approval before state agencies release proposed regulations for notice and comment, amend existing regulations, or adopt new regulations. After our review of this rulemaking, we approve the rules' submission to JCAR and the Secretary of State.

Sincerely,


Justin D. Smith
Deputy Counsel



Commissioners
DANIEL Y. HALL
Chairman
STEPHEN M. STOLL
WILLIAM P. KENNEY
SCOTT T. RUPP
MAIDA J. COLEMAN

Missouri Public Service Commission

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John R. Ashcroft
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-4.050 Limitation on Appearance before Commission

Dear Secretary Ashcroft,

CERTIFICATION OF ADMINISTRATIVE RULE

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

Statutory Authority: sections 386.410, RSMo 2000

If there are any questions regarding the content of this order of rulemaking, please contact:

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Jefferson City, MO 65102
(573) 751-4393
Michael.bushmann@psc.mo.gov

Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

**Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 4 – Standards of Conduct**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.410, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-4.050 Limitation on Appearance before Commission is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 3, 2017 (42 MoReg 20-21). No changes have been made in the text of the proposed rule, so it is not reprinted here. The proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended February 2, 2017, and on February 16, 2017, the commission held a public hearing on the proposed rescission. Timely written comments were received from the Office of the Public Counsel (OPC), the Missouri Energy Development Association (MEDA), the Missouri Cable Telecommunications Association (MCTA), Union Electric Company d/b/a Ameren Missouri (Ameren Missouri), Missouri Industrial Energy Consumers (MIEC), Midwest Energy Consumers Group (MECG), and Consumers Council of Missouri. In addition to those entities, the commission's staff, Missouri American Water Company, Laclede Gas Company, Kansas City Power & Light Company, Empower Missouri, and AARP all offered comments at the hearing. The comments of regulated utilities and utility associations generally supported the proposed rule. The Office of the Public Counsel and other organizations representing consumers all strongly opposed adopting the proposed rule.

COMMENT #1: OPC comments that in the title of the proposed rule, the words "and Prohibited Acts" should be added to the title to reflect OPC's recommended additions in the rule describing acts prohibited by the Commissioners.

RESPONSE: The Commission disagrees with the comment because it does not find that OPC's recommended additions describing prohibited acts are appropriate. No changes have been made to the rule as a result of this comment.



COMMENT #2: OPC proposes that the word “contested” should be deleted and the words “or filing” should be added to make the limitation apply to all filings at the Commission, not just contested cases.

RESPONSE: These comments were accommodated by revising the definition of “case” in proposed rule 4 CSR 240-4.015 and removing references to “contested case” throughout the proposed rules. No changes have been made to this rule as a result of this comment.

COMMENT #3: OPC proposes that four new sections should be added. Section 2 should be added to incorporate the standards of conduct contained in sections 105.462, 105.464, and 105.455, RSMo, as modified to be specific to the Commission. Section 3 should be added to provide additional standards and make clear when a Commissioner must recuse himself or herself from a proceeding in order to maintain the public trust. Section 4 should be added to establish the process for a party to move to disqualify or seek recusal of a Commissioner. Section 5 should be added to provide guidance as to whether orders in which a conflicted Commissioner participates are impacted.

RESPONSE: The Commission disagrees with the comment because the suggested new provisions are outside the scope of the subject matter of this proposed rule. No changes have been made to the rule as a result of this comment.