

MISSOURI CODE OF STATE REGULATIONS

* THIS DOCUMENT REFLECTS ALL REGULATIONS IN EFFECT AS OF MARCH 31, 2004 *

TITLE 4 - DEPARTMENT OF ECONOMIC DEVELOPMENT
DIVISION 240 - PUBLIC SERVICE COMMISSION
CHAPTER 2 - PRACTICE AND PROCEDURE

4 CSR 240-2.100 (2004)

4 CSR 240-2.100 Subpoenas

(1) A request for a subpoena or a subpoena duces tecum requiring a person to appear and testify at the taking of a deposition or at a hearing, or for production of documents or records shall be filed on the form provided by the commission and shall be directed to the secretary of the commission. A request for a subpoena duces tecum shall specify the particular document or record to be produced, and shall state the reasons why the production is believed to be material and relevant.

(2) Except for a showing of good cause, a subpoena or subpoena duces tecum shall not be issued fewer than twenty (20) days before a hearing.

(3) Objections to a subpoena or subpoena duces tecum or motions to quash a subpoena or subpoena duces tecum shall be made within ten (10) days from the date the subpoena or subpoena duces tecum is served.

(4) Subpoenas or subpoenas duces tecum shall be signed and issued by the secretary of the commission, a commissioner or by a law judge pursuant to statutory delegation authority. The name and address of the witness shall be inserted in the original subpoena or subpoena duces tecum and a copy of the return shall be filed with the secretary of the commission. Subpoenas or subpoenas duces tecum shall show at whose instance the subpoena or subpoena duces tecum is issued. Blank subpoenas shall not be issued.

(5) If there is a failure to comply with a subpoena or a subpoena duces tecum after objections or a motion to quash have been determined by the commission, the commission by its counsel or the party seeking enforcement may apply to a judge of the circuit court of the county in which--the hearing has been held, is being held, or is scheduled to be held, or where the witness resides or may be found--for an order enforcing the subpoena or subpoena duces tecum.

AUTHORITY: section 386.410, RSMo Supp. 1998. *

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

Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000.

NOTES:

PURPOSE: The commission may issue subpoenas for the production of witnesses and records. This rule prescribes the procedures for requesting and issuing subpoenas.

Missouri Revised Statutes

Chapter 386 Public Service Commission Section 386.440

August 28, 2003

Subpoenas, how issued--witness fees, how paid--subpoena service costs, how paid--certified copies of public records to be furnished to commission.

386.440. 1. All subpoenas shall be signed and issued by a commissioner or by the secretary of the commission, and shall extend to all parts of the state, and may be served by any person authorized to serve process of courts of record or by any person of full age designated for that purpose by the commission or by a commissioner. The person executing any such process shall receive the fees now prescribed by law for similar services in civil cases in the circuit courts in this state, and shall be paid in the same manner as provided herein for the payment of the fees of the witnesses. Each witness who shall appear before the commission or a commissioner by its or his order, shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in the circuit courts of this state, which shall be audited and paid by the state in the same manner as other expenses of the commission are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the commission.

2. Whenever a subpoena is issued at the instance of a complainant, respondent, or other party, except the public counsel to any proceeding before the commission, the cost of service thereof and the fee of the witness shall be borne by the party at whose instance the witness is summoned. Any witness subpoenaed except one whose fees and mileage may be paid from the funds of the commission may, at the time of service, demand the fee to which he is entitled for travel to and from the place at which he is required to appear, and one day's attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, he shall not be required to attend before the commission or commissioner, as directed in the subpoena. No witness furnished with free transportation shall receive mileage for the distance he may have traveled on such free transportation.

3. It shall be the duty of every public officer, without exacting or receiving charge or fee of any kind, to furnish to the commission, or the public counsel, upon application, a certified copy of any document or part thereof, on file in his office, and no public officer shall be entitled to receive from the commission or the public counsel any fee for entering, filing, docketing or recording any document required or authorized by law to be filed in his office.

4. Each witness who appears under subpoena before the commission or a commissioner at the instance of the public counsel shall receive for his attendance the fees and mileage now provided for witnesses in civil cases in the circuit courts of this state, which shall be audited and paid by the state in the same manner as other expenses of the public counsel are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the public counsel.

(RSMo 1939 § 5598, A.L. 1977 H.B. 42 & 157)