

RECEIVED

OCT 30 2002

SECRETARY OF STATE
ADMINISTRATIVE RULES

MATT BLUNT
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

A "SEPARATE" rule transmittal sheet must be used for EACH individual rulemaking.

A. Rule Number 4 CSR 240-33.070
Diskette File Name MoUSF Rule 33.070 Amendment
Name of Person to call with questions about this rule:
Content Marc Poston Phone (573)751-8701 FAX (573)751-9285
Data Entry Natelle Dietrich Phone (573)751-7427 FAX (573)751-9285
Interagency Mailing Address Governor Office Building, 200 Madison Street, 8th Floor
Jefferson City, MO
Statutory Provision for Rulemaking
Authority §§ 392.200.2, 392.248 and 392.470.1. Provide Most Current RSMo Year 2000
Date Filed With the Joint Committee on Administrative Rules Not Applicable (Exempt pursuant To Section 536.037.3 RSMo 2000)

B. CHECK, IF INCLUDED: FORMS, List by Mo-Form Number, # of Pages
☒ Cover Letter _____
☒ Affidavit _____
☒ Cost Statements _____
Public Entity Fiscal Note OTHER _____
☒ Private Entity Fiscal Note _____

C. RULEMAKING ACTION TO BE TAKEN
____ Emergency Rulemaking, Must Specify Effective Date
☒ Proposed Rulemaking (New Rule or Amendment or Rescission of Existing Rule)
____ Order of Rulemaking (MUST complete page 2 of this transmittal)
____ Withdrawal (Rule, Amendment, Rescission or Emergency)
____ Rule Action Notice
____ In Addition

D. SPECIFIC INSTRUCTIONS: In this space indicate any special instructions (e.g., specify publication date preference, identify material incorporated by references, etc.)

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number N/A

1a. Effective Date for the Order
Statutory 30 days _____ or later specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?
YES _____ NO _____

1c. If the answer is YES, please complete section F. If the answer is NO, Stop here.

F. Please provide a complete list of the changes in the rule text for the order or rulemaking, indicating the specific section, subsection, subparagraph, part, etc., where each change is found.

(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer language that appears at the bottom of this page.)

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.



Commissioners
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
SHEILA LUMPE
STEVE GAW
BRYAN FORBIS

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.state.mo.us>

ROBERT J. QUINN, JR.
Executive Director
WESS A. HENDERSON
Director, Utility Operations
ROBERT SCHALLENBERG
Director, Utility Services
DONNA M. PRENGER
Director, Administration
DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

October 30, 2002

Mr. Matt Blunt
Secretary of State

Administrative Rules Division
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt,

RE: 4 CSR 240-33.070 Discontinuance of Service to Residential Customers

CERTIFICATION OF ADMINISTRATIVE RULE

I hereby certify that the attached is an accurate and complete copy of the proposed amendment lawfully submitted by the Missouri Public Service Commission for filing on this 30th day of October 2002.

The Missouri Public Service Commission has determined and hereby certifies that this proposed amendment will not have an economic impact on small businesses. The Missouri Public Service Commission also certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to section 536.017 RSMo 2000 and that this proposed amendment does not constitute a taking of real property under relevant state and federal law.

Statutory Authority: Sections 392.200.2, 392.248 and 392.470.1 RSMo 2000.

If there are any questions, please contact:

Marc Poston, Senior Counsel
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8701, FAX (573) 751-9285
marcposton@psc.state.mo.us

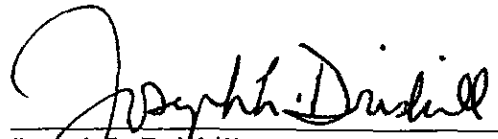
BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

AFFIDAVIT

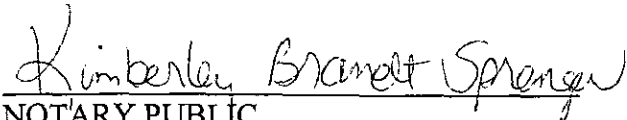
STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Joseph L. Driskill, 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 240-33.070 Discontinuance of Service to Residential Customers, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Joseph L. Driskill
Director
Department of Economic Development

Subscribed and sworn to before me this 8th day of October,
2002. I am commissioned as a notary public within the County of Cole,
State of Missouri, and my commission expires on April 29, 2006.



NOTARY PUBLIC

KIMBERLEY BRANDT SPRENGER
NOTARY PUBLIC STATE OF MISSOURI
COLE COUNTY
MY COMMISSION EXP. APR. 29, 2006

Title 4--DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240--Public Service Commission
Chapter 33--Service and Billing Practices for Telephone Utilities

DISSENTED

OCT 30 2002

PROPOSED AMENDMENT

STATE OF MISSOURI
ADMINISTRATIVE

4 CSR 240-33.070 Discontinuance of Service to Residential Customers. The commission is amending sections (2) and (3).

PURPOSE: This rule prescribes the conditions under which service to a residential customer may be discontinued and establishes procedures to be followed by telecommunications companies and residential customers regarding these matters so that reasonable and uniform standards exist for the discontinuance of service.

- (1) Telecommunications service may be discontinued for any of the following reasons:
 - (A) Nonpayment of a delinquent charge except as limited by sections (2), (4) and (5) of this rule;
 - (B) Failure to post a required deposit or guarantee;
 - (C) Unauthorized use of telecommunications company equipment in a manner which creates an unsafe condition or creates the possibility of damage or destruction to such equipment;
 - (D) Failure to comply with terms of a settlement agreement;
 - (E) Refusal after reasonable notice to permit inspection, maintenance or replacement of telecommunications company equipment;
 - (F) Material misrepresentation of identity in obtaining telecommunications company service; or
 - (G) As provided by state or federal law.
- (2) Basic local telecommunications service may not be discontinued for customer nonpayment of a delinquent charge for other than basic local telecommunications services. The failure to pay charges not subject to commission jurisdiction shall not constitute cause for a discontinuance of basic local telecommunication service. **Non-payment of the Missouri USF surcharge shall be considered non-payment of basic local telecommunications services for the purposes of this rule.**
- (3) A telecommunications company may place global toll blocking and eliminate any optional, non-basic calling features and functions for customer nonpayment of delinquent charges for other than basic local telecommunications service. *[Non payment of the Missouri USF surcharge shall be considered non payment of basic local telecommunications services for the purposes of this rule.]*
- (4) Subject to the requirements of this chapter, service may be discontinued during normal business hours on or after the date specified in the notice of discontinuance. Basic local telecommunications service shall not be discontinued on a day when the offices of a telecommunications company are not available to facilitate reconnection of basic local telecommunications service or on a day immediately preceding such day.

(5) Telecommunications service shall not be discontinued under section (1) of this rule unless written notice by first-class mail is served on the customer at least ten (10) days prior to the date of the proposed discontinuance. Service of notice by mail is complete upon mailing. As an alternative, a telecommunications company may deliver a written notice by hand to the customer at least ninety-six (96) hours prior to discontinuance.

(6) A notice of discontinuance shall contain the following information:

- (A) The name and address and the telephone number of the customer;
- (B) A statement of the reason for the proposed discontinuance and the cost for reconnection;
- (C) The date after which service will be discontinued unless appropriate action is taken;
- (D) How a customer may avoid the discontinuance;
- (E) The customer's right to enter into a settlement agreement if the claim is for a charge not in dispute and the customer is unable to pay the charge in full at one time;
- (F) The telephone number where the customer may make an inquiry;
- (G) A statement that this notice will not be effective if the charges involved are part of an unresolved dispute; and
- (H) A statement of the exception for medical emergency under section (8) of this rule.

(7) At least twenty-four (24) hours preceding a discontinuance of basic local telecommunications service, a telecommunications company shall make reasonable efforts to advise the customer of the proposed discontinuance and what steps must be taken to avoid it. Reasonable efforts shall include either a written notice in addition to the notice required in section (5), a door hanger or at least one (1) telephone call attempt to reach the customer.

(8) Notwithstanding any other provision of this chapter, a telecommunications company shall postpone a discontinuance for at least twenty-one (21) days if service is necessary to obtain emergency medical assistance for a person who is a member of the household where the telephone service is provided and where such person is under the care of a physician. Any person who alleges such emergency, if requested, shall provide the telecommunications company with reasonable evidence of such necessity.

(9) Upon the customer's request, a telecommunications company shall restore service consistent with all other provisions of this chapter when the cause of discontinuance has been eliminated.

(10) Payment by personal check may be refused if the customer, within the last twelve (12) months, has tendered payment in this manner and the check has been dishonored, except when the dishonor is due to bank error.

AUTHORITY: sections 386.040, 386.250 and 392.200, RSMo 2000.

** Original rule filed Jan. 14, 1977, effective Oct. 1, 1977. Amended: Filed July 5, 1983, effective Feb. 11, 1984. Emergency amendment filed Dec. 20, 1983, effective Jan. 1,*

1984, expired Feb. 11, 1984. Rescinded and readopted: Filed Aug. 26, 1999, effective April 30, 2000. Amended: Filed October 15, 2002.

*Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 392.200, RSMo 1939, amended 1987, 1988, 1996.

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

PRIVATE COST: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102, (573) 751-3234. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. Comments should refer to Case No. TX-2002-1026. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the Commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. A public hearing is scheduled for January 22, 2003 at 10:00 a.m. in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, for interested persons to appear and 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 days prior to the hearing at one of the following numbers: Consumer Services Hotline 1-800-392-4211, or TDD Hotline 1-800-829-7541.

**FISCAL NOTE
PRIVATE ENTITY COST**

I. RULE NUMBER

Title: Missouri Department of Economic Development
Division: Missouri Public Service Commission
Chapter: Service and Billing Practices for Telecommunications Companies
Type of Rulemaking: Revision
Rule Number and Name: 4 CSR 240-33.070 Discontinuance of Service to Residential Customers

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification* by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
3	Class A Local Telephone Companies	\$0
39	Class B Local Telephone Companies	\$0
71	Class C Local Telephone Companies	\$0
551	Class Interexchange Companies	\$0
	All entities	\$0

* Class A Telephone Companies are incumbent local telephone companies with more than \$100,000,000 annual revenues system wide; Class B Telephone Companies are incumbent local telephone companies with \$100,000,000 annual revenues or less system wide; Class C Local Telephone Companies are all other companies certificated to provide basic local exchange telecommunications services, Class Interexchange Companies are long distance providers.

III. WORKSHEET

1. The proposed rule applies to all classes of telecommunications companies certificated by the Missouri Public Service Commission, and was developed by the Missouri Universal Service Fund Technical Committee.
2. The estimated number of entities affected by the proposed rule reflects the total number of companies certificated within Missouri that could provide service if tariffs are amended as outlined in the proposed rule.

IV. ASSUMPTIONS

1. The life of the rule is estimated to be five years.
2. Fiscal year 2002 dollars were used to estimate costs. No adjustment for inflation is applied.
3. Estimates assume no sudden change in technology that would influence costs.
4. Affected entities are assumed to be in compliance with all other Missouri Public Service Commission rules and regulations.
5. The universe of entities is based upon data contained within the Missouri Universal Service Fund Model as presented before the Commission in Case No. TO-98-329 and is assumed to remain constant.