

5. Because of extraordinary reasons sufficient in the opinion of the appointing authority to warrant such time off with compensation.

Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and Division of Personnel
Chapter 5—Working Hours, Holidays and Leaves of Absence

ORDER OF RULEMAKING

By the authority vested in the Personnel Advisory Board under section 36.070, RSMo Supp. 1999, the board amends a rule as follows:

1 CSR 20-5.025 ShareLeave is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 15, 1999 (24 MoReg 2580-2581). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 2—DEPARTMENT OF AGRICULTURE
Division 80—State Milk Board
Chapter 2—Grade A Pasteurized Milk Regulations

ORDER OF RULEMAKING

By the authority vested in the State Milk Board under section 196.939, RSMo, Supp. 1999, the board hereby amends a rule as follows:

2 CSR 80-2.180 Adoption of the *Grade A Pasteurized Milk Ordinance with Administrative Procedures—Recommendations of the United States Public Health Service/Food and Drug Administration (PMO)* is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on December 1, 1999 (24 MoReg 2764). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994, and 386.250 and 392.200, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-33.010 General Provisions is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2347). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for Telecommunications Companies

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994, and 386.250 and 392.200, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-33.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2347). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One written comment was received regarding each of sections (2) and (3). Three written comments were received regarding section (4). One general written comment to this rule was received. A hearing was held to accept public comments for this rule on November 15, 1999. No comments on this rule were made at the hearing.

COMMENT: One written comment suggested that section (2) be amended to broaden the protection from the rights granted by this chapter to include the rights granted by all of the Commission rules.

RESPONSE AND EXPLANATION OF CHANGE: Section (2) as proposed was not altered from the current rule which was originally promulgated in 1977. However, the Commission finds that it is reasonable to prohibit discrimination because a customer or prospective customer has exercised any right granted by a Commission rule. Therefore, the Commission will amend section (2) as suggested in the comment.

COMMENT: One written comment was received which suggested that section (3) should be amended to require the rules adopted by the company to be filed as part of the company's tariff. The commenter stated that this would at least give the consumers implied notice of the rules. The commenter objected to the company being allowed to make such rules which would be given the force of law once the tariff is effective. As an alternative, the commenter suggested that the company be allowed to make rules but those rules not become part of the tariff.

RESPONSE: Telecommunications companies are permitted by Missouri statute to file tariffs setting out their rates and services. Those tariffs are given the force and effect of law by statute, unless the Commission takes action to prohibit it. However, the Commission does not "file" these tariffs in a docketed case unless there is a specific reason for doing so. In most instances a tariff is "submitted" to the Staff of the Commission which keeps those tariffs in the Commission's offices so that the general public has

access to them. The language of this section of the rule was not changed from the current rule which was promulgated in 1977 and the Commission intends to keep its current practice the same as it has been since this rule was originally promulgated in 1977. The Commission finds that no change is necessary to this rule as a result of the comments.

COMMENT: One written comment was received that suggested that section (4) be amended so that last part of the sentence reads, "shall file with the Commission a statement of such compliance."

RESPONSE: The Commission made only minor technical changes to section (4) from the current rule as promulgated in 1977. The Commission finds that the rule does not need further clarification and no changes are necessary as a result of the comment.

COMMENT: One written comment was received which suggested that section (4) be amended to allow the time frame for compliance with Chapter 33 to be more flexible. The commenter suggested that its company could take as long as 2,000 working days to comply with the billing changes in Chapter 33. The commenter suggested that section (4) be written as follows: (4) All telecommunications companies shall submit a compliance plan to implement all requirements of this chapter within three (3) weeks after the effective date of this rule and shall also notify the commission when such compliance plan has been implemented.

RESPONSE: The Commission finds that six months is a reasonable amount of time for compliance with the new provisions of Chapter 33. Furthermore, the Commission finds that the proposed six month compliance period will be consistent with other rules of the Commission. Finally, the Commission notes that 4 CSR 240-2.060(11) sets out the procedure by which the company may request a variance from the Commission's rules.

COMMENT: One written comment was received which suggested that the changes to rule .010 were appropriate and that the six months allowed for compliance in section (4) was a reasonable amount of time. The commenter also stated that six months is consistent with a similar provision in 4 CSR 240-32.

RESPONSE: The Commission agrees with the commenter and finds that no changes to the proposed rule are necessary as a result of this comment.

COMMENT: One general written comment to rule .010 was received. That comment suggested that new rules on cramming and the privacy rights of customers be added to this chapter.

RESPONSE: The Commission finds that it is not appropriate to add additional rules during this rulemaking proceeding. However, the Commission notes the suggestions for future rulemaking and suggests that the commenter make any proposals for additional rules under the procedures set forth in 4 CSR 240-2.180.

4 CSR 240-33.010 General Provisions

(2) A telecommunications company shall not discriminate against a customer or prospective customer for exercising any right granted by any commission rule.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994, and 386.250 and 392.200, RSMo Supp. 1999, the commission rescinds a rule as follows:

4 CSR 240-33.020 Definitions is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2347-2348). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: This rescission was proposed in conjunction with a replacement proposed rule. The comments received were directed to the proposed rule.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 33—Service and Billing Practices for Telecommunications Companies

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, RSMo 1994, and 386.250 and 392.200, RSMo Supp. 1999, the commission adopts a rule as follows:

4 CSR 240-33.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 1999 (24 MoReg 2348-2350). Those sections with changes are reprinted here. This proposed rule becomes effective thirty days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: One written comment each to sections (9), (12), (13), (15), (16), (21) and (24) were received. Two written comments each were received to sections (5), (7), (20), and (23). One general written comment was received which resulted in a new section (20) being added. A hearing to receive public comments on this rule was held on November 15, 1999. No comments on this rule were given at the hearing.

COMMENT: One written comment was received which suggested that the definition of Bill Insert or Insert contained in section (4) be clarified. The commenter suggested that the definition be amended to exclude promotional materials, advertisements, or solicitations for service or products.

RESPONSE: The Commission rules which discuss bill inserts as defined by section (4) only address what must be included as a bill insert. Those rules do not address what cannot be included as a bill insert. Therefore, the Commission finds that this rule need not be amended to exclude promotional materials, advertisements, or solicitations. The Commission determines that no change to this rule is necessary as a result of this comment.

COMMENT: One written comment was received which indicated that section (4) should be amended to reflect the use of electronic billing.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with the commenter that the rules should apply to electronic notices which are attached to electronic bills sent to the customers. Therefore the Commission finds that section (4) should be amended to include electronic notices.

COMMENT: One written comment explains that the definition of "service," which is included in the current rules, was not included in these proposed rules. The commenter notes that the result of excluding this definition is that the rules in this chapter will be applicable to both residential and business customers. As the