

MEMORANDUM

**TO:** Steven C. Reed, Secretary

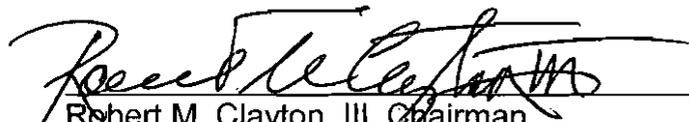
**DATE:** April 7, 2010

**RE:** Authorization to file Final Order of Rulemaking with the Office of Secretary of State

**CASE NO.:** TX-2010-0160

The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file the following Final Order of Rulemaking with the Office of the Secretary of State, to wit:

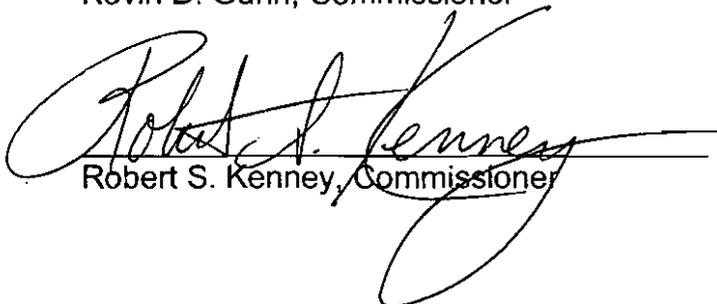
**Proposed Rule 4 CSR 240-33.160 – Service and Billing Practices For Telecommunications Companies**

  
Robert M. Clayton, III, Chairman

  
Jeff Davis, Commissioner

  
Terry M. Jarrett, Commissioner

  
Kevin D. Gunn, Commissioner

  
Robert S. Kenney, Commissioner

**Robin Carnahan**

Secretary of State  
Administrative Rules Division

**RULE TRANSMITTAL**

Administrative Rules Stamp

Rule Number 4 CSR 240-33.160

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

Name of person to call with questions about this rule:

Content Morris L. Woodruff Phone 573-636-8957 FAX 573-526-6010

Email address morris.woodruff@psc.mo.gov

Morris L.

Data Entry Woodruff Phone 573-636-8957 FAX 573-526-6010

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Interagency mailing address PSC, Ste. 900, Gov. Ofc. Bldg. Jefferson City, MO 65102

**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:

4 CSR 240-33.160(7)(F) has been amended

Small Business Regulatory  
Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON

APR 07 2010

ADMINISTRATIVE RULES



Commissioners  
**ROBERT M. CLAYTON III**  
Chairman  
**JEFF DAVIS**  
**TERRY M. JARRETT**  
**KEVIN GUNN**  
**ROBERT S. KENNEY**

## *Missouri Public Service Commission*

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Executive Director  
**DANA K. JOYCE**  
Director, Administration and  
Regulatory Policy  
**ROBERT SCHALLENBERG**  
Director, Utility Services  
**NATELLE DIETRICH**  
Director, Utility Operations  
**STEVEN C. REED**  
Secretary/General Counsel  
**KEVIN A. THOMPSON**  
Chief Staff Counsel

Honorable Robin Carnahan  
Secretary of State  
Administrative Rules Division  
600 West Main Street  
Jefferson City, Missouri 65101

Dear Secretary Carnahan:

**Re: Amendment of 4 CSR 240-33.160**

### **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 for filing.

Statutory Authority: Sections 386.040, 386.250, 392.185(9), and 392.470, RSMo 2000.

If there are any questions, please contact: **Morris L. Woodruff**, Chief Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street  
P.O. Box 360  
Jefferson City, MO 65102  
(573) 751-2849  
[morris.woodruff@psc.mo.gov](mailto:morris.woodruff@psc.mo.gov)

A handwritten signature in black ink that reads "Morris L. Woodruff".

**Morris L. Woodruff**  
Chief Regulatory Law Judge  
Missouri Public Service Commission

**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 Public Service Commission under sections 386.040, 386.250, 392.185(9), and 392.470 RSMO 2000, the commission amends a rule as follows:

**4 CSR 240-33.160 is amended.**

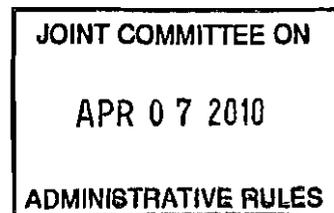
A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on February 1, 2010 (35 MoReg 210). The section with changes is reprinted here. The proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** The public comment period ended March 5, 2010, and a public hearing on the proposed rule was held March 8, 2010. Timely written comments were received from the staff of the Missouri Public Service Commission and from AT&T Missouri. In addition, the commission's staff and AT&T Missouri offered comments at the hearing. The comments generally supported the proposed amendment, with one modification that both the commission's staff and AT&T Missouri support.

**COMMENT 1 Modification of Time to File CPNI Report:** The commission's staff offered a written comment that explains that the commission's existing rule requires all telecommunications companies to submit a customer proprietary network information (CPNI) report by March first of each year. The amendment would make it easier for telecommunications companies to comply with this requirement by allowing them to incorporate the CPNI report into their broader annual report to the commission. No comments opposed this aspect of the proposed amendment

**RESPONSE:** The commission will not change this aspect of the amendment.

**COMMENT 2 Option to Attach a Copy of CPNI Filing to the FCC:** The commission's staff's written comment explained that the proposed amendment would also allow some telecommunications companies to comply with the state CPNI filing requirement by submitting a copy of the CPNI filing those companies are already filing with the Federal Communications Commission (FCC). However, the proposed amendment would allow a telecommunications company



to comply with the state requirement by attaching a copy of the FCC filing only if the company does not share CPNI with joint venture partners or independent contractors (except for billing and collection services).

AT&T Missouri's written comment contends the rule's exception should be expanded to allow a telecommunications company to attach a copy of the FCC CPNI filing to comply with the state filing requirement if it shares CPNI with joint venture partners or independent contractors for otherwise permitted activities, beyond simply billing and collection services.

At the hearing, the commission's staff and AT&T Missouri agreed that the amendment should be modified to expand that exception.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission will modify the amendment in the manner agreed to by the commission's staff and AT&T Missouri.

#### **4 CSR 240-33.160 Customer Proprietary Network Information**

(7)(F) A company shall annually submit statements in its annual report to the commission explaining how its operating procedures ensure that it is or is not in compliance with the rules in this section. Such statements will be in a format as described in the commission's annual report form. Alternatively a company may attach to its annual report a copy of its CPNI filing to the Federal Communications Commission if the company does not share CPNI with joint venture partners or independent contractors except to initiate, render, bill and collect for telecommunications services (or as otherwise permitted without customer approval under the commission's rules under 4 CSR 240-33.160(2)(C). If a company does share such CPNI with joint venture partners or independent contractors then the company must indicate whether confidentiality agreements are used that comply with 4 CSR 240-33.160(3)(A). In addition, the company shall include an explanation of any actions taken against any individual or entity that unlawfully obtains, uses, discloses, or sells CPNI and a summary of all customer complaints received in the past year concerning the unauthorized release of CPNI.