



Commissioners

STEVE GAW  
Chair

CONNIE MURRAY

KELVIN L. SIMMONS

BRYAN FORBIS

ROBERT M. CLAYTON III

Missouri Public Service Commission

POST OFFICE BOX 360  
JEFFERSON CITY, MISSOURI 65102  
573-751-3234  
573-751-1847 (Fax Number)  
<http://www.psc.mo.gov>  
September 12, 2003

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

Mr. Joseph L. Driskill, Director  
Department of Economic Development  
301 West High Street  
Jefferson City, MO 65102

Re: No Public Cost Affidavit for  
Proposed Rules 4 CSR 240-36.010 to 36.080  
Public Service Commission Arbitration Rules for *Telecommunications Act of 1996*  
MoPSC Case No. TX-2003-0487

Dear Mr. Driskill:

To address procedures used for review of interconnection agreements under the *Telecommunications Act of 1996*, the Public Service Commission proposes to publish Proposed Rules 4 CSR 240-36.010, **Definitions**; 4 CSR 240-36.020, **Filing Procedures**; 4 CSR 240-36.030, **Mediation**; 4 CSR 240-36.040, **Arbitration**; 4 CSR 240-36.050, **Commission Approval of Agreements Reached by Arbitration**; 4 CSR 240-36.060, **Commission Approval of Agreements Reached by Voluntary Mediation or Negotiation**; 4 CSR 240-36.070, **Commission Notice of Adoption of Previously Approved Agreement**; 4 CSR 240-36.080, **Commission Approval of Amendments to Agreements Approved or Adopted Under These Rules**.

Please find enclosed:

- (1) an affidavit regarding public entity costs for these proposed rules;
- (2) a "takings" analysis; and
- (3) a copy of each of the proposed rules.

The Commission has performed the small business analysis required by Executive Order 03-15 and plans to include the language following in the transmittal letter to the Secretary of State for the proposed rules:

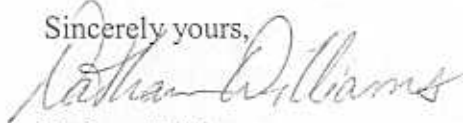
Executive Order 03-15 requires state agencies to "determine whether the proposed rules affect small businesses and, if so, the availability and practicability of less restrictive alternatives that could be implemented to achieve the same results of the proposed rule." A small business is defined to be "a for-profit enterprise consisting of fewer than fifty (50) full or part-time employees." A proposed rule "affects" a small business if it "imposes any requirement" that "will cause direct and significant economic

burden upon a small business, or is directly related to the formation, operation, or expansion of a small business.”

Proposed rules 4 CSR 240-36.010 through 4 CSR 240-36.080 state procedures for Public Service Commission review of interconnection agreements made under the *Telecommunications Act of 1996*, in particular, 47 U.S.C. § 252. Because these rules do not impose any requirement that “will cause direct and significant economic burden upon a small business, or [that] is directly related to the formation, operation, or expansion of a small business,” the Commission certifies that it has determined that the proposed rules will not have an economic impact on small businesses.

Please let me know if you have any questions concerning these proposed rules.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Nathan Williams", is written over the typed name.

Nathan Williams

Senior Counsel

(573) 751-8702

(573) 751-9285 (Fax)

[nathanwilliams@psc.state.mo.us](mailto:nathanwilliams@psc.state.mo.us) (E-Mail)

Enclosures.

MEMORANDUM

**TO:** Dale Hardy Roberts, Secretary

**THROUGH:** Dan Joyce

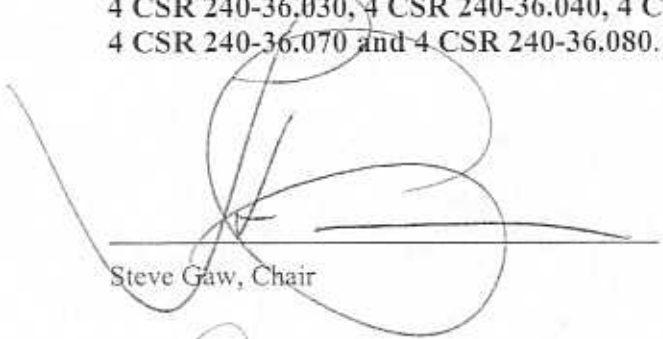
**FROM:** Nathan Williams

**DATE:** December 30, 2003


**SUBJECT:** Authorization to File Proposed Rulemakings with the Office of the Secretary of State.

Case No. TX-2003-0487


The undersigned Commissioners hereby authorize the General Counsel's Office of the Missouri Public Service Commission to file the following Proposed Rulemakings with the Office of the Secretary of State, to wit: 4 CSR 240-36.010, 4 CSR 240-36.020, 4 CSR 240-36.030, 4 CSR 240-36.040, 4 CSR 240-36.050, 4 CSR 240-36.060, 4 CSR 240-36.070 and 4 CSR 240-36.080.



Steve Gaw, Chair



Connie Murray, Commissioner



Robert M. Clayton, Commissioner

**MATT BLUNT**  
Secretary of State  
Administrative Rules Division  
RULE TRANSMITTAL

\*Administrative Rules Stamp

RECEIVED

DEC 30 2003

SECRETARY OF STATE  
ADMINISTRATIVE RULES

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

A. Rule Number 4 CSR 240-36.070  
Diskette File Name Proposed Rule 4 CSR 240-36.070  
Name of Person to call with questions about this rule:  
Content Nathan Williams Phone 573-751-8702 FAX 573-751-9285  
Data Entry Nathan Williams Phone 573-751-8702 FAX 573-751-9285  
Email Address nathan.williams@psc.mo.gov  
Interagency Mailing Address Governor Office Building, 200 Madison St., 8th Floor, Jefferson City, MO  
Statutory Authority 386.410 Current RSMo date 2000  
Date Filed With the Joint Committee on Administrative Rules Exempt per Sections 536.024 and 536.037, RSMo 2000, and Executive Order No. 97-97 (June 27, 1997)

B. CHECK, IF INCLUDED:

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> This transmittal completed | <input type="checkbox"/> Incorporation by reference materials, if any  |
| <input checked="" type="checkbox"/> Cover letter               | <input checked="" type="checkbox"/> Authority with history of the rule |
| <input type="checkbox"/> Affidavit                             | <input checked="" type="checkbox"/> Public cost                        |
| <input type="checkbox"/> Forms, number of pages _____          | <input checked="" type="checkbox"/> Private cost                       |
| <input type="checkbox"/> Fiscal notes                          | <input checked="" type="checkbox"/> Hearing and comment period         |

C. RULEMAKING ACTION TO BE TAKEN

- ☐ Emergency Rulemaking, (check one) ☐ rule ☐ amendment ☐ rescission ☐ termination  
**MUST** include effective date
- ☒ Proposed Rulemaking (check one) ☒ rule ☐ amendment ☐ rescission  
☐ Order of Rulemaking (check one) ☐ rule ☐ amendment ☐ rescission ☐ termination  
**MUST** complete page 2 of this transmittal
- ☐ Withdrawal (check one) ☐ rule ☐ amendment ☐ rescission ☐ emergency
- ☐ Rule action notice
- ☐ In addition
- ☐ Rule under consideration

D. SPECIFIC INSTRUCTIONS: Please indicate any special instructions (e.g., publication date preference, identify material to be incorporated by reference, or forms included herein).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

JCAR Stamp

E. ORDER OF RULEMAKING: Rule Number \_\_\_\_\_

1a. Effective Date for the Order

☐ Statutory 30 days

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 of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. This is not a reprinting of your order, but an explanation of what sections, subsections, etc. have been changed since the original proposed rule was filed.

(Start text here. If text continues to a third page, insert a continuous section break and, in **section 3**, delete the footer text. DO NOT delete the header, however.)

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**

STEVE GAW  
Chair

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BRYAN FORBIS

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Secretary/Chief Regulatory Law Judge

DANA K. JOYCE  
General Counsel

December 30, 2003

Mr. Matt Blunt  
Secretary of State  
Administrative Rules Division  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Blunt,

**RE: 4 CSR 240-36.070 Commission Notice of Adoption of Previously Approved Agreement**

**CERTIFICATION OF ADMINISTRATIVE RULE**

I do hereby certify that the attached is an accurate and complete copy of the proposed rule lawfully submitted by the Missouri Public Service Commission on this thirtieth day of December 2003.

Executive Order 03-15 requires state agencies to "determine whether the proposed rules affect small businesses and, if so, the availability and practicability of less restrictive alternatives that could be implemented to achieve the same results of the proposed rule." A small business is defined to be "a for-profit enterprise consisting of fewer than fifty (50) full or part-time employees." A proposed rule "affects" a small business if it "imposes any requirement" that "will cause direct and significant economic burden upon a small business, or is directly related to the formation, operation, or expansion of a small business."

Proposed rule 4 CSR 240-36.070 is part of a group of rules—4 CSR 240-36.010 through 4 CSR 240-36.080—that state procedures for Public Service Commission review of interconnection agreements made under the *Telecommunications Act of 1996*, in particular, 47 U.S.C. § 252. Because proposed rule 4 CSR 240-36.070 will not impose any requirement that "will cause direct and significant economic burden upon a small business, or [that] is directly related to the formation, operation, or expansion of a small business," the Commission certifies that it has determined that the proposed rule 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 final rule does not constitute a taking of real property under relevant state and federal law.

Statutory Authority: Sections 386.410 RSMo 2000.

If there are any questions regarding the content of the rule, please contact:

December 30, 2003

Page 2

Nathan Williams  
200 Madison Street, Suite 800  
P. O. Box 360  
Jefferson City, MO 65101  
(573) 751-8702  
[nathan.williams@psc.mo.gov](mailto:nathan.williams@psc.mo.gov)

Sincerely yours,



Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Public Service Commission  
State of Missouri

DHR:NW:

Enclosures: Transmittal Form, Cover Letter, Public Entity no cost affidavit, Proposed Rule & 3.5" Diskette

cc: Missouri Small Business Regulatory Fairness Board

AFFIDAVIT

STATE OF MISSOURI   )  
                                  )  
COUNTY OF COLE     )

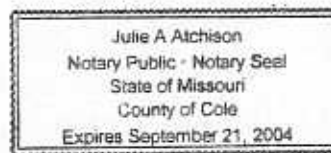
I, Joseph L. Driskill, Director of the Department of Economic Development, first being duly sworn on my oath state that it is my opinion that the cost of proposed rule 4 CSR 240-36.070—**Commission Notice of Adoption of Previously Approved Agreement** is less than five hundred dollars in the aggregate 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 15<sup>th</sup> day of December, 2003.  
I am commissioned as a notary public within the County of  
Cole, State of Missouri, and my commission expires on  
September 21, 2004.

  
\_\_\_\_\_  
NOTARY PUBLIC





Title 4--DEPARTMENT OF  
ECONOMIC DEVELOPMENT  
Division 240--Public Service Commission  
Chapter 36 - Alternative Dispute Resolution Procedural Rules Governing Filings  
Made Pursuant to the Telecommunications Act of 1996

**PROPOSED RULE**

**4 CSR 240-36.070 Commission Notice of Adoption of Previously Approved Agreement**

*PURPOSE: This rule provides the procedure for notifying the commission of the adoption of a previously approved agreement.*

(1) Provision of Previously Approved Agreements—Carriers shall make available for a reasonable time any agreement approved under this section in accordance with section 252(i) of the Act and section 51.809 of the Code of Federal Regulations. A carrier may request that the commission take notice of the adoption of a previously approved agreement, and the requesting carrier is not required to have prior approval or signature of the carrier from whom it received the agreement. The carrier shall serve the incumbent local exchange carrier with its request for adoption when it submits the request to the commission. If the incumbent local exchange carrier wishes to object to the commission, it must do so within ten (10) days of the date the request is submitted to the commission, and its objection must be based on, and allege facts that support, one or both of the following grounds:

(A) The costs of providing a particular interconnection, service, or element to the requesting telecommunications carrier are greater than the costs of providing it to the telecommunication carrier that originally negotiated the agreement; or

(B) The provision of a particular interconnection, service, or element to the requesting carrier is not technically feasible.

*AUTHORITY: section 386.410 RSMo 2000.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before March 5, 2004, and should include a reference to commission Case No.TX-2003-0487. 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 regarding this proposed rule is scheduled for March 12, 2004, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to 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 (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.*