

Title 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and Transportation Commission  
Chapter 3—Utility and Private Line Location and Relocation

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SECRETARY OF STATE  
ADMINISTRATIVE RULES

PROPOSED AMENDMENT

7 CSR 10-3.020 Utility Relocation Hearings. The Missouri Highways and Transportation Commission is amending sections (1) through (9).

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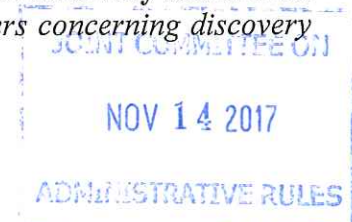
*PURPOSE: This amendment updates the administrative hearing process related to Commission orders to relocate utility facilities consistent with the Missouri Administrative Procedures Act in chapter 536, RSMo, removes unnecessary restrictive language, and authorizes a utility to waive an administrative hearing.*

(1) *[Requirement of ]*Hearing **Authorized**. The commission has authority to order the location and relocation of utility improvements and facilities within the right-of-way of any state highway to prevent interference with the construction, maintenance and public use of state highways. Before exercising its authority to order the relocation of utility facilities within the right-of-way, the commission shall provide **the opportunity for an administrative hearing under section 227.240, RSMo to any entity, person or corporation authorized under section 227.240 RSMo to own or maintain utility lines, poles, wires, conduits, pipelines and tramways (“utility facility”) within state highway right-of-way regarding the commission’s [upon its] proposed plan of utility facility location or relocation and other incidental matters. Such entity, person or corporation may waive, at any time, the right to an administrative hearing under section 227.240 RSMo, which is to be provided to the district engineer or his/her designee or the hearing examiner.**

(2) Notice of Hearing. Upon request by the district engineer, the commission's hearing examiner shall prepare a **written** notice of hearing*[. The notice shall be in writing.]***that** includes a plan or drawing indicating the locations within the right-of-way in which utilities may be located and maintained, state when the commission or its contractor is scheduled to begin work on the right-of-way, state the date by which work shall be completed on utilities within the right-of-way, fix the time and place of the administrative hearing and advise that the purpose of the hearing is to consider the commission's proposed plan of utility location and other incidental matters. The *[district engineer shall cause the]* notice of hearing *[to]***may** be served upon each **entity, person, or corporation, [association or person owning or maintaining utilities]authorized under section 227.240 RSMo to own or maintain a utility facility** within the right-of-way by *[personal service, with certificate of service or]*certified mail, with return receipt requested, **at least fifteen (15) days before the date of the hearing. [The notice shall be delivered or mailed at least fifteen (15) days before the date of hearing.]**

(3) *[Presiding]* Hearing Officer*[s]*. The commission's hearing examiner *[and the chief engineer or his/her designated representative shall]* presides at **and conducts** the hearing **as provided in chapter 536, RSMo and this rule, including, but not limited to, ruling on all discovery matters, objections, and motions, and having the hearing record transcribed.**

(4) Discovery. **The parties to the hearing may conduct any method of discovery authorized in Chapter 536, RSMo. [The hearing examiner shall rule on all matters concerning discovery**



*under section 536.073, RSMo].*

(5) Subpoenas. Witnesses may be summoned to appear and give testimony *[at the hearing]* or to **give testimony and produce documents** by a subpoena or *subpoena duces tecum* issued by the *[secretary to the commission]* **hearing examiner** at the request of any party **as authorized under section 536.077, RSMo.**

(6) Evidence, Arguments and Briefs. *[The hearing shall be conducted as provided by Chapter 536, RSMo.]* The commission shall first present its evidence at the hearing. Then any party may present evidence in opposition. **The parties may offer closing arguments before conclusion of the hearing.** The hearing examiner may require written briefs to be filed within the time set by the hearing examiner for the use of the commission in reaching a final decision. *[The hearing examiner may rule on all objections and motions to facilitate submission of the case to the commission for its final decision.]*

(7) Transcript. *[At the conclusion of the hearing, the hearing examiner shall cause the entire record to be transcribed in sufficient quantities that the original may remain a permanent part of the commission's records and that one (1) copy may be furnished to each member of the commission].* Any party may obtain a copy of the *[record]* **transcript of the hearing** at that party's expense.

(8) Report and Order. As soon as practical after receipt of the transcripts and briefs of the parties, if any, the hearing examiner shall submit to each member of the commission a full copy of the transcript of the proceedings along with a *[suggested]***proposed** report and order for consideration by the commission.

(9) Final Decision. As soon as practical after receipt of the transcript and *[suggested]***proposed** report and order, the commission members shall render a final decision in writing.

*AUTHORITY: section 227.240, RSMo (1986). \* Original rule filed May 12, 1978, effective Aug. 11, 1978. Amended: Filed November 14, 2017.*

*\*Original authority 1939.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Highways and Transportation Commission, Pamela J. Harlan, Secretary to the Commission, 105 W. Capitol Avenue, PO Box 270, Jefferson City, MO 65102 or [Pamela.Harlan@modot.mo.gov](mailto:Pamela.Harlan@modot.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*