

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

**7 CSR 10-3.020 Utility Relocation Hearings**

*PURPOSE: This rule provides a uniform procedure for administrative hearings concerning location and relocation of utility improvements and facilities within the rights-of-way of state highways.*

(1) Requirement of Hearing. 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]* **will** provide an administrative hearing under section 227.240, RSMo upon its proposed plan of utility location and other incidental matters.

(2) Notice of Hearing. Upon request by the district engineer, the commission's hearing examiner *[shall]* **will** prepare a notice of hearing. The notice *[shall]* **will** be in writing, include 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]* **will** 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]* **will** cause the notice of hearing to be served upon each corporation, association or person owning or maintaining utilities within the right-of-way by personal service, with certificate of service or certified mail, with return receipt requested. The notice *[shall]* **will** be delivered or mailed at least fifteen (15) days before the date of hearing.

(3) Presiding Officers. The commission's hearing examiner and the chief engineer or his/her designated representative *[shall]* **will** preside at the hearing.

(4) Discovery. The hearing examiner *[shall]* **will** 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 by a subpoena issued by the secretary to the commission at the request of any party.

(6) Evidence, Arguments and Briefs. The hearing *[shall]* **will** be conducted as provided by Chapter 536, RSMo. The commission *[shall]* **will** first present its evidence at the hearing. Then any party may present evidence in opposition. 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*] **will** 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 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*] **will** submit to each member of the commission a full copy of the transcript of the proceedings along with a suggested report and order for consideration by the commission.

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

AUTHORITY: section 227.240, RSMo (1986), **sections 227.551-559, RsMO 2006**.<sup>\*</sup> Original rule filed May 12, 1978, effective Aug. 11, 1978.

<sup>\*</sup>Original authority 1939.