

TITLE 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 20—Sports Wagering

PROPOSED RULE

11 CSR 45-20.440 Commercial Reasonableness

PURPOSE: This rule establishes a process for determining whether official league data is being provided on commercially reasonable terms.

(1) Sports governing bodies or their designees providing official league data shall do so on commercially reasonable terms.

(2) Retail and Mobile licensees may petition the commission for a determination that the terms under which official league data is being provided are not commercially reasonable.

(3) Any petition under this rule shall be submitted electronically to the commission and to the Official League Data Provider licensee. The petition shall—

(A) Identify the petitioning Retail or Mobile licensee, including name, address, and contact information for any legal counsel;

(B) Identify the Official League Data Provider licensee;

(C) Include a complete copy of the contract or offer sheet the Retail or Mobile licensee alleges includes the unreasonable terms, which shall be a closed record;

(D) Include any facts upon which the Retail or Mobile licensee will rely to show that the terms of the contract or offer are not commercially reasonable;

(E) Include a summary of the Retail or Mobile licensee's argument as to why the terms of the contract or offer are not commercially reasonable;

(F) Contain the following statement, "The undersigned certifies that the statements set forth in this request are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true."; and

(G) Be notarized.

(4) If the commission determines that a petition does not meet all requirements, that petition shall be rejected and it shall notify both parties.

(5) The Official League Data Provider licensee shall submit an answer electronically to the commission and to the Retail or Mobile licensee within twenty-one (21) days after submission of the petition. The answer shall—

(A) Identify the Official League Data Provider licensee, including name, address, and contact information of any legal counsel;

(B) Include specific responses to any factual allegations made in the petition;

(C) Include any additional facts upon which the Official League Data Provider licensee will rely;

(D) Include a summary of the Official League Data Provider licensee's argument as to why the terms of the contract or offer are commercially reasonable;

(E) Contain the following statement, “The undersigned certifies that the statements set forth in this request are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes the same to be true.”; and

(F) Be notarized.

(6) Failure to submit an answer within twenty-one (21) days, or failure to submit an answer that complies with all requirements of this rule shall constitute an admission of all facts in the petition.

(7) The commission will determine whether the official league data has been made available on commercially reasonable terms, within one hundred twenty (120) days of receiving the petition. The commission shall consider the following factors when determining whether the terms of a contract or offer are commercially reasonable:

(A) The availability of a sports governing body’s tier two official league data to a Retail or Mobile licensee from more than one (1) authorized source;

(B) Market information, including but not limited to price and other terms and conditions, regarding the purchase by licensees of comparable data for the purpose of settling sports wagers in this state and other jurisdictions;

(C) The nature and quantity of data, including the quality and complexity of the process utilized for collecting such data;

(D) The extent to which sports governing bodies or their designees have made data used to settle tier two wagers available to operators and any terms and conditions relating to the use of that data; and

(E) Whether and to what extent the terms of the contract or offer are against the public interest of the state of Missouri.

(8) While the commission is evaluating the petition, Retail and Mobile licensees may use any data source for determining the results of any and all tier two sports wagers.

(9) Once the commission has made a determination, the commission will notify the interested parties.

(A) If the commission determines that the official league data was not made available on commercially reasonable terms, Retail and Mobile licensees may use other licensed suppliers of league data for tier two wagers.

(B) If the commission determines that the official league data was made available on commercially reasonable terms, Retail and Mobile licensees shall continue to use the Official League Data Provider licensee.

(10) Either party who disagrees with the determination of the commission may request a hearing pursuant to 11 CSR 45-13.

(11) All hearings shall be conducted under the same procedures as those in 11 CSR 45-13, with the following exceptions:

(A) Any party may move that the hearing officer make a recommendation on the pleadings. In any such motion, all facts will be strictly construed against the movant. A recommendation to grant a motion on the pleadings shall be considered by the commission prior to any other proceedings on the merits;

(B) Any oral argument of any substantive motion and any oral proceeding involving contested facts shall be transcribed in accordance with 11 CSR 45-13; and

(C) The hearing officer shall tender any recommendation to both parties electronically and simultaneously.

(12) The hearing officer, in making his or her recommendation to the commission, shall consider the same list of factors that the commission used to determine whether official league data is being offered on commercially reasonable terms.

AUTHORITY: section 39(g) of Article III, Mo. Const., section 313.004, RSMo 2016, and sections 313.800–313.850, RSMo 2016 and Supp. 2024. Original rule filed May 14, 2025.