



Rules of Department of Economic Development

Division 240—Public Service Commission Chapter 3—Filing and Reporting Requirements

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**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 3—Filing and Reporting
Requirements**

4 CSR 240-3.010 General Definitions

PURPOSE: This rule sets forth the definitions of certain terms used in rules 4 CSR 240-3.015 through 4 CSR 240-3.030, and also includes the definitions of general terms used within this chapter of the commission's rules. Definitions of additional terms used in certain utility-specific rules are found in 4 CSR 240-3.100, 4 CSR 240-3.200, 4 CSR 240-3.300, and 4 CSR 240-3.500. All definitions found in this chapter supplement those definitions found in Chapters 386, 392 and 393 of the Missouri Revised Statutes.

(1) Applicant means any person or public utility, as defined herein, on whose behalf an application is made.

(2) Bill means a written or electronic demand for payment for service or equipment and the taxes, assessments, and franchise fees related thereto.

(3) Commission means the Missouri Public Service Commission as created by Chapter 386 of the Missouri Revised Statutes.

(4) Commission staff means all personnel employed by the commission whether on a permanent or contractual basis who are not attorneys in the general counsel's office, who are not members of the commission's research department, or who are not law judges.

(5) Complaint means an informal or formal complaint under 4 CSR 240-2.070.

(6) Corporation includes a corporation, company, association, or joint stock company or association, or any other entity created by statute which is allowed to conduct business in the state of Missouri.

(7) Customer means any person, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., that accepts financial and other responsibilities in exchange for services provided by one (1) or more public utilities.

(8) Delinquent charge means a charge remaining unpaid by a monthly billed customer at least twenty-one (21) days and for at least sixteen (16) days by a quarterly billed customer from the rendition of the bill by the

utility or a charge remaining unpaid after the preferred payment date selected by the customer.

(9) Deposit means a money advance to a utility for the purpose of securing payment of delinquent charges which might accrue to the customer who made the advance.

(10) Electric utility means an electrical corporation as defined in section 386.020(15), RSMo.

(11) Financing means acquisition of equity or debt interests, loans, guarantees of loans, advances, sale and repurchase agreements, sale and leaseback agreements, sales on open account, conditional or installment sales contracts or other investments or extensions of credit.

(12) Gas utility means a gas corporation as defined in section 386.020(18), RSMo.

(13) Guarantee means a written promise from a third party to assume liability up to a specified amount for delinquent charges which might accrue to a particular customer.

(14) Municipality means a city, village or town.

(15) Person means any individual, firm, joint venture, partnership, corporation, association, county, state, municipality, political subdivision, cooperative association or joint stock association, and includes any trustee, receiver, assignee or personal representative of them.

(16) Pleading means any application, complaint, petition, answer, motion, staff recommendation, or other similar written document, which is not a tariff or correspondence, and which is filed in a case. A brief is not a pleading under this definition.

(17) Political subdivision means any township, city, town, village, and any school, road, drainage, sewer and levee district, or any other public subdivision, public corporation or public quasi-corporation having the power to tax.

(18) Premises means a tract of land or real estate, including buildings and other appurtenances thereon, to which utility service is provided to a customer.

(19) Public counsel means the Office of the Public Counsel as created by the Omnibus State Reorganization Act of 1974, and

includes the assistants who represent the public before the commission.

(20) Public utility means public utility as defined in section 386.020(42), RSMo.

(21) Regulated electrical corporation means every electrical corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapter 393, RSMo.

(22) Regulated gas corporation means every gas corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapter 393, RSMo.

(23) Regulated heating company means every heating company as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapter 393, RSMo.

(24) Rule means all of these rules as a whole or the individual rule in which the word appears, whichever interpretation is consistent with the rational application of this chapter.

(25) Service means service as defined in section 386.020(47), RSMo.

(26) Sewer utility means a sewer corporation as defined in section 386.020(48), RSMo.

(27) Steam heating utility means a heating company as defined in section 386.020(20), RSMo.

(28) Tariff means a document published by a public utility, and approved by the commission, that sets forth the services offered by that utility and the rates, terms and conditions for the use of those services.

(29) Telecommunications company means a telecommunications company as defined in section 386.020(51), RSMo.

(30) Utility company means an electric utility, a gas utility, a sewer utility, a steam heating utility, a telecommunications company or a water utility, either individually or collectively, as those terms are defined herein.

(31) Variance means an exemption granted by the commission from any applicable standard required pursuant to this chapter.

(32) Water utility means a water corporation as defined in section 386.020(58), RSMo.

*AUTHORITY: section 386.250, RSMo 2000. * Original rule filed Aug. 16, 2002, effective April 30, 2003.*



**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.015 Filing Requirements for Utility Company Applications for Waivers or Variances

PURPOSE: This rule provides a reference to the commission's practice and procedure rule regarding this subject.

(1) The requirements for filing applications for waivers or variances from commission rules and tariff provisions, as well as those statutory provisions that may be waived, are contained in Chapter 2 of the commission's rules in rule 4 CSR 240-2.060.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.020 Filing Requirements Regarding Utility Company Name Changes

PURPOSE: This rule provides a reference to the commission's practice and procedure rule regarding this subject.

(1) The requirements for filings regarding utility company name changes are contained in Chapters 2 and 3 of the commission's rules in rules 4 CSR 240-2.060, 4 CSR 240-3.520, 4 CSR 240-3.525 and 4 CSR 240-3.545.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed March 19, 2004, effective Nov. 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.025 Utility Company Tariff Filings Which Create Cases

PURPOSE: This rule provides a reference to the commission's practice and procedure rule regarding this subject.

(1) The commission's rule regarding tariff filings which create cases, which includes various filing requirements, is contained in Chapter 2 of the commission's rules in rule 4 CSR 240-2.065.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.030 Minimum Filing Requirements for Utility Company General Rate Increase Requests

PURPOSE: This rule prescribes the information which must be filed by all electric utilities, all large local exchange telecommunications companies, all large gas, water and sewer utilities, and all steam heating utilities when filing for a general company-wide increase in rates. Additional requirements regarding this subject matter are also found in 4 CSR 240-3.160 for electric utilities and 4 CSR 240-3.235 for gas utilities.

(1) This rule applies to all electric utilities; to all local exchange telecommunications companies with more than five thousand (5,000) access lines; to all gas utilities with more than one thousand five hundred (1,500) customers; to all water utilities with more than five thousand (5,000) customers; to all sewer utilities with more than five thousand (5,000) customers; and to all steam heating utilities, under the jurisdiction of the commission.

(2) A general rate increase request is one where the company or utility files for an overall increase in revenues through a company-wide increase in rates for the utility service it provides, but shall not include requests for changes in rates made pursuant to an adjustment clause or other similar provisions contained in a utility's tariffs.

(A) With regard to any telecommunications company subject to this rule, any increase in revenues as a result of an increase in rates within a previously approved rate band for a transitionally competitive or competitive service pursuant to sections 392.500 and 392.510, RSMo will not be considered a general rate increase and thereby not be subject to these minimum filing requirements.

(3) At the time a tariff(s) is filed by any company or utility subject to this rule which contains a general rate increase request, an original and fourteen (14) copies of the following information shall be filed with the secretary of the commission and two (2) copies shall be provided to the Office of the Public Counsel:

(A) A letter transmitting the proposed tariff changes to the secretary of the commission of the Missouri Public Service Commission;

(B) General information concerning the filing which will be of interest to the public and suitable for publication, including:

1. The amount of dollars of the aggregate annual increase and the percentage of increase over current revenues which the tariff(s) proposes;

2. Names of the counties and communities affected;

3. The number of the customers to be affected in each general category of service and in all rate classifications within each general category of service;

4. The average change requested in dollars and percentage change from current rates for each general category of service and for all rate classifications within each general category of service;

5. The proposed annual aggregate change by general categories of service and by rate classification within each general category of service including dollar amounts and percentage of change in revenues from current rates;

6. Copies of any press releases relative to the filing issued by the company or utility prior to or at the time of the filing; and

7. A summary of the reasons for the proposed changes or a summary explanation of the reasons the additional rate is needed.

(4) For good cause shown, the commission may grant a waiver of any of the provisions of this rule.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.100 Definitions Pertaining Specifically to Electric Utility Rules

PURPOSE: This rule sets forth the definitions of certain terms used in rules 4 CSR 240-3.105 through 4 CSR-3.190, which are in addition to the definitions set forth in rule 4 CSR 240-3.010 of this chapter.

(1) Affiliate means any person who, directly or indirectly, controls or is controlled by or is under common control with an electric utility.

(2) Appliance or equipment means any device which consumes electric energy and any ancillary device required for its operation.

(3) Avoided costs means the incremental costs to an electric utility of electric energy



or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, that utility would generate itself or purchase from another source.

(4) Consideration shall be interpreted in its broadest sense and shall include any cash, donation, gift, allowance, rebate, discount, bonus, merchandise (new or used), property (real or personal), labor, service, conveyance, commitment, right or other thing of value.

(5) Control (including the terms “controlling,” “controlled by,” and “common control”) means the possession, directly or indirectly, of the power to direct, or to cause the direction of the management or policies of an entity, whether such power is exercised through one (1) or more intermediary entities, or alone, or in conjunction with, or pursuant to an agreement with, one (1) or more other entities, whether such power is exercised through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, affiliated entities, contract or any other direct or indirect means. The commission shall presume that the beneficial ownership of ten percent (10%) or more of voting securities or partnership interest of an entity constitutes control for purposes of this rule. This provision, however, shall not be construed to prohibit a regulated electrical corporation from rebutting the presumption that its ownership interest in an entity confers control.

(6) Cost-effective means that the present value of life-cycle benefits is greater than the present value of life-cycle costs to the provider of an energy service.

(7) Decommissioning means those activities undertaken in connection with a nuclear generating unit’s retirement from service to ensure that the final removal, disposal, entombment or other disposition of the unit and of any radioactive components and materials associated with the unit, are accomplished in compliance with all applicable laws, and to ensure that the final disposition does not pose any undue threat to the public health and safety. Decommissioning includes the removal and disposal of the structures, systems and components of a nuclear generating unit at the time of decommissioning.

(8) Decommissioning costs means all reasonable costs and expenses incurred in connection with decommissioning, including all expenses to be incurred in connection with the preparation for decommissioning, including, but not limited to, engineering and other

planning expenses; and to be incurred after the actual decommissioning occurs, including, but not limited to, physical security and radiation monitoring expenses, less proceeds of insurance, salvage or resale of machinery, construction equipment or apparatus the cost of which was charged as a decommissioning expense.

(9) Demand-side resource means any inefficient energy-related choice that can be influenced cost-effectively by a utility. The meaning of this term shall not be construed to include load-building program.

(10) Energy service means the need that is served or the benefit that is derived by the ultimate consumer’s use of energy.

(11) Inefficient energy-related choice means any decision that causes the life-cycle cost of providing an energy service to be higher than it would be for an available alternative choice.

(12) Load-building program means an organized promotional effort by a utility to persuade energy-related decision makers to choose the form of energy supplied by that utility instead of other forms of energy for the provision of energy service or to persuade customers to increase their use of that utility’s form of energy, either by substituting it for other forms of energy or by increasing the level or variety of energy services used. This term is not intended to include the provision of technical or engineering assistance, information about filed rates and tariffs or other forms of routine customer service.

(13) Promotional practices means any consideration offered or granted by an electric utility or its affiliate to any person for the purpose, express or implied, of inducing the person to select and use the service or use additional service of the utility or to select or install any appliance or equipment designed to use the utility service, or for the purpose of influencing the person’s choice or specification of the efficiency characteristics of appliances, equipment, buildings, utilization patterns or operating procedures. The term promotional practices shall not include the following activities:

(A) Making any emergency repairs to appliances or equipment of customers;

(B) Providing appliances or equipment incidental to demonstrations of sixty (60) days or less in duration;

(C) Providing light bulbs, street or outdoor lighting service, wiring, service pipe or other service equipment or appliances, in accor-

dance with tariffs filed with and approved by the commission;

(D) Providing appliances or equipment to an educational institution for the purpose of instructing students in the use of the appliances or equipment;

(E) Merchandising appliances or equipment at retail and, in connection therewith, the holding of inventories, making and fulfillment of reasonable warranties against defects in material and workmanship existing at the time of delivery and financing; provided that the merchandising shall not violate any prohibition contained in 4 CSR 240-14.020;

(F) Inspecting and adjusting of appliances or equipment by an electric utility;

(G) Repairing and other maintenance to appliances or equipment by an electric utility if charges are at cost or above;

(H) Providing free or below-cost energy audits or other information or analysis regarding the feasibility and cost-effectiveness of improvements in the efficiency characteristics of appliances, equipment, buildings, utilization patterns or operating procedures;

(I) Offering to present or prospective customers by an electric utility technical or engineering assistance; and

(J) Advertising or publicity by an electric utility which is under its name and on its behalf and which does not in any manner, directly or indirectly, identify, describe, refer to, mention or relate to any architect, builder, engineer, subdivider, developer or other similar person, or which mentions no less than three (3) existing projects, developments or subdivisions.

(14) Purchase means the purchase of electric energy or capacity or both from a qualifying facility by an electric utility.

(15) Qualifying facility means a cogeneration facility or a small power production facility which is a qualifying facility under Subpart B of Part 292 of the Federal Energy Regulatory Commission’s (FERC) regulations.

(16) Sale means the sale of electric energy or capacity or both by an electric utility to a qualifying facility.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*



4 CSR 240-3.105 Filing Requirements for Electric Utility Applications for Certificates of Convenience and Necessity

PURPOSE: Applications to the commission requesting that the commission grant a certificate of convenience and necessity must meet the requirements of this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications by an electric utility for a certificate of convenience and necessity shall include:

(A) If the application is for a service area—

1. A statement as to the same or similar utility service, regulated and nonregulated, available in the area requested;

2. If there are ten (10) or more residents or landowners, the name and address of no fewer than ten (10) persons residing in the proposed service area or of no fewer than ten (10) landowners in the event there are no residences in the area, or, if there are fewer than ten (10) residents or landowners, the name and address of all residents and landowners;

3. The legal description of the area to be certificated;

4. A plat drawn to a scale of one-half inch (1/2") to the mile on maps comparable to county highway maps issued by the Missouri Department of Transportation or a plat drawn to a scale of two thousand feet (2,000') to the inch; and

5. A feasibility study containing plans and specifications for the utility system and estimated cost of the construction of the utility system during the first three (3) years of construction; plans for financing; proposed rates and charges and an estimate of the number of customers, revenues and expenses during the first three (3) years of operations;

(B) If the application is for electrical transmission lines, gas transmission lines or electrical production facilities—

1. A description of the route of construction and a list of all electric and telephone lines of regulated and nonregulated utilities, railroad tracks or any underground facility, as defined in section 319.015, RSMo, which the proposed construction will cross;

2. The plans and specifications for the complete construction project and estimated cost of the construction project or a statement of the reasons the information is currently unavailable and a date when it will be furnished; and

3. Plans for financing;

(C) When no evidence of approval of the affected governmental bodies is necessary, a statement to that effect;

(D) When approval of the affected governmental bodies is required, evidence must be provided as follows:

1. When consent or franchise by a city or county is required, approval shall be shown by a certified copy of the document granting the consent or franchise, or an affidavit of the applicant that consent has been acquired; and

2. A certified copy of the required approval of other governmental agencies; and

(E) The facts showing that the granting of the application is required by the public convenience and necessity.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.110 Filing Requirements for Electric Utility Applications for Authority to Sell, Assign, Lease or Transfer Assets

PURPOSE: Applications to the commission for the authority to sell, assign, lease or transfer assets must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to sell, assign, lease or transfer assets shall include:

(A) A brief description of the property involved in the transaction, including any franchises, permits, operating rights or certificates of convenience and necessity;

(B) A copy of the contract or agreement of sale;

(C) The verification of proper authority by the person signing the application or a certified copy of resolution of the board of directors of each applicant authorizing the proposed action;

(D) The reasons the proposed sale of the assets is not detrimental to the public interest;

(E) If the purchaser is subject to the jurisdiction of the commission, a balance sheet and income statement with adjustments show-

ing the results of the acquisitions of the property; and

(F) A statement of the impact, if any, the sale, assignment, lease or transfer of assets will have on the tax revenues of the political subdivisions in which any structures, facilities or equipment of the companies involved in that sale are located.

(2) If the purchaser is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(3) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.115 Filing Requirements for Electric Utility Applications for Authority to Merge or Consolidate

PURPOSE: Applications to the commission for the authority to merge or consolidate must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to merge or consolidate shall include:

(A) A copy of the proposed plan and agreement of corporate merger and consolidation, including organizational charts depicting the relationship of the merging entities before and after the transaction;

(B) A certified copy of the resolution of the board of directors of each applicant authorizing the proposed merger and consolidation;

(C) The balance sheets and income statements of each applicant and a balance sheet and income statement of the surviving corporation;

(D) The reasons the proposed merger is not detrimental to the public interest;

(E) An estimate of the impact of the merger on the company's Missouri jurisdictional operations relative to the merger and acquisition in question; and

(F) A statement of the impact, if any, the merger or consolidation will have on the tax



revenues of the political subdivision in which any structures, facilities or equipment of the companies involved are located.

(2) If the purchaser is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(3) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.120 Filing Requirements for Electric Utility Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness

PURPOSE: Applications to the commission for the authority to issue stock, bonds, notes or other evidences of indebtedness must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to issue stock, bonds, notes and other evidences of indebtedness shall contain the following:

(A) A brief description of the securities which applicant desires to issue;

(B) A statement of the purpose for which the securities are to be issued and the use of the proceeds;

(C) Copies of executed instruments defining the terms of the proposed securities—

1. If these instruments have been previously filed with the commission, a reference to the case number in which the instruments were furnished;

2. If these instruments have not been executed at the time of filing, a statement of the general terms and conditions to be contained in the instruments which are proposed to be executed; and

3. If none of these instruments is either executed or to be executed, a statement of how the securities are to be sold;

(D) A certified copy of resolutions of the directors of applicant authorizing the issuance of the securities;

(E) A balance sheet and income statement with adjustments showing the effects of the issuance of the proposed securities upon—

1. Bonded and other indebtedness; and
2. Stock authorized and outstanding;

(F) A statement of what portion of the issue is subject to the fee schedule in section 386.300, RSMo; and

(G) A five (5)-year capitalization expenditure schedule as required by section 393.200, RSMo.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.125 Filing Requirements for Electric Utility Applications for Authority to Acquire the Stock of a Public Utility

PURPOSE: Applications to the commission for the authority to acquire the stock of a public utility must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to acquire the stock of a public utility shall include:

(A) A statement of the offer to purchase stock of the public utility or a copy of any agreement entered with shareholders to purchase stock;

(B) A certified copy of the resolution of the directors of applicant authorizing the acquisition of the stock; and

(C) Reasons why the proposed acquisition of the stock of the public utility is not detrimental to the public interest.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.130 Filing Requirements for Applications for Approval of Electric Service Territorial Agreements

PURPOSE: This rule establishes requirements that applications to the commission for approval of territorial agreements between electric service providers must meet. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1) and 4 CSR 240-3.135.

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for commission approval of territorial agreements between electric service providers shall include:

(A) A copy of the territorial agreement and a specific designation of the boundary, including legal description;

(B) An illustrative tariff which reflects any changes in a regulated utility's operations or certification;

(C) An explanation as to why the territorial agreement is in the public interest;

(D) A list of all persons whose utility service would be changed by the agreement; and

(E) A check for the initial filing fee set forth in 4 CSR 240-3.135.

(2) If any of the items required by subsections (1)(A)–(D) of this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: sections 386.250, 386.800 and 394.312, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.135 Schedule of Fees Applicable to Applications for Approval of Electric Service Territorial Agreements, Petitions for Designation of Electric Service Areas and Applications for Resolution of Annexation-Related Disputes

PURPOSE: This rule establishes a schedule of fees for commission review of proposed territorial agreements, petitions for commission designation of electric service areas, and annexation-related applications.

(1) Commission review of an application for a proposed territorial agreement, a petition for commission designation of electric service areas, or an application for resolution of an annexation-related dispute, shall be accompanied by an initial filing fee in the amount of five hundred dollars (\$500).



(2) In addition to the filing fee, the fee for commission review of an opposed application for approval of a proposed territorial agreement between electric service providers is set at six hundred eighty-five dollars (\$685) per hour of hearing time, subject to a minimum charge for hearing time of six hundred eighty-five dollars (\$685). There is an additional charge of three dollars and fifty cents (\$3.50) per page of transcript. These fees are in addition to the fees authorized by section 386.300, RSMo.

(3) The parties shall be responsible for payment of any unpaid fees on and after the effective date of the commission's report and order relating to the electric territorial agreement, designation of service areas or annexation-related application. The executive director shall send an itemized billing statement to the applicants on or after the effective date of the commission's report and order. Responsibility for payment of the fees shall be that of the parties to the proceeding as ordered by the commission in each case.

(4) An application for commission review of proposed amendment(s) to an existing territorial agreement between electric service providers shall not be subject to the fee of five hundred dollars (\$500) specified in section (1) of this rule. However, the applicants shall be responsible for the payment of a fee which reflects necessary hearing time (including the minimum hearing time charge) and the transcript costs as specified in section (2) of this rule.

(5) On July 1 of each year, the filing fee and the fee per hour of evidentiary hearing time will be modified to match any percentage change in the Consumer Price Index for the twelve (12)-month period ending December 31 of the preceding year.

AUTHORITY: sections 386.250, 386.800 and 394.312, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 386.800, RSMo 1991; and 394.312, RSMo 1988, amended 1989.*

4 CSR 240-3.140 Filing Requirements for Applications for Authority for a Change of Electrical Suppliers

PURPOSE: Applications to the commission for the approval of a change of electrical suppliers must meet the requirements set forth in this rule. As noted in the rule, additional

requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for the approval of a change in electrical suppliers shall include:

(A) A description of the type of structure where the change of supplier is sought, and the street address, if any, of the structure;

(B) The name and address of the electrical supplier currently providing service to the structure;

(C) The name and address of the electrical supplier to which the applicant wishes to change;

(D) The applicant's reasons for seeking a change of supplier;

(E) If the applicant's reasons involve service problems, a description of the problems and dates of occurrence, if known;

(F) If the applicant's reasons involve service problems, a description of the contacts which applicant has had with the current supplier regarding the problems, if any, and what efforts the current supplier has made to solve the problems, if any;

(G) The reasons a change of electrical suppliers is in the public interest;

(H) If the current electrical supplier and the requested electrical supplier agree to the requested change, a verified statement for each supplier with the application, indicating agreement; and

(I) If the applicant is an electrical supplier, a list of the names and addresses of all customers whose electrical supplier is proposed to be changed.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.145 Filing Requirements for Electric Utility Rate Schedules

PURPOSE: This rule prescribes the form and procedures for filing and publishing schedules of rates of all electric utilities under the jurisdiction of the Public Service Commission.

(1) Every electrical corporation, as defined in section 386.020, RSMo, engaged in the man-

ufacture, generating, furnishing or transmission of electricity for light, heat or power within Missouri is directed to have on file with this commission not later than October 15, 1913, a schedule of all rates, rentals and charges of whatever nature made by the electrical corporation for each kind of service it renders which were in force on April 15, 1913, together with proper supplements covering all changes in rate schedules authorized by this commission, if any, since April 15, 1913.

(2) Every electrical corporation is directed on and after October 15, 1913, to publish all of its schedules of rates with this commission as follows:

(A) To keep all of its schedules of rates established and filed with this commission and in its main or principal operating office and in each division office which is now or may be established;

(B) To keep at each of its branch business offices where contracts for service are made or payment for customer's service is received, copies of all of its established schedules of rates which apply within the area served; and

(C) That all schedules of rates at all times during business hours shall be readily accessible to the public and shall be immediately produced for inspection upon the demand of any person. The production for inspection of schedules of rates shall be accompanied by such assistance on the part of the proper representative of the electrical corporation having a schedule to determine accurately the rate or charge applicable to any particular kind of electrical service.

(3) All schedules of rates, rentals and charges, or rules relating and applying to service rendered in connection with the supplying of electrical energy for light, heat and power or for any service rendered in connection with electrical energy supply, lawfully on file with the commission and in force on April 15, 1913, will be considered as continuing in force and may be amended in the manner provided in this rule.

(4) All schedules of rates on file with this commission and in effect April 15, 1913, not in accordance with this rule shall be reprinted in the manner prescribed by this rule and filed on or before October 15, 1913. All new schedules of rates issued after April 15, 1913, must conform to this rule or they will be subject to rejection by the commission when tendered for filing. The commission reserves the right to direct the reprinting of any schedule at any time.



(5) In classifying rates for electrical service the following uniform system of classification will be followed as closely as practical:

(A) All lighting rates for residences, business places, theaters, public buildings, and the like will be placed under the head of commercial lighting;

(B) All power rates, including rates for battery charging, will be placed under the head of commercial power; and

(C) All rates for street lighting, including municipal street lighting and the free lighting of public buildings as is done in connection with street lighting will be placed under the head of street lighting.

(6) All schedules of rates should be on a good serviceable quality of paper and, if in the discretion of the commission, the volume of schedule justifies it, a schedule shall not be accepted for filing until printed.

(7) All schedules of rates filed with the commission shall bear a number with the following prefix: PSC Mo. Rate schedules shall be numbered in consecutive serial order commencing with a No. 1 for each electrical corporation (for example, the first schedule PSC Mo., No. 1). The prefixes and numbers shall be printed on schedules as required by section (9) of this rule. For convenience the prefix is referred to as PSC.

(8) All schedules of rates shall be in book, sheet or pamphlet form of size eight and one-half inches by eleven inches (8 1/2" × 11"). A loose-leaf plan may be used so that changes may be made by reprinting and inserting a single leaf. When the loose-leaf plan is used, all sheets except the title page must show in the marginal space at the top of page or sheet, the name of the electrical corporation issuing the PSC No., the number of the schedule and the number of the page or sheet. At the bottom of the sheet in the marginal space must be shown, the date of issue and effective date and the name, title and address of the officer by whom the schedule is issued.

(9) The title page or sheet, if loose leaf, of every schedule of rates shall show—

(A) The full corporate name of the issuing electrical corporation;

(B) The PSC number of the schedule in bold type in the center of the marginal space at top of the page and immediately under it in small type the PSC number(s) canceled;

(C) A brief description of the service areas from and to or within which the schedule applies;

(D) When a schedule rate is governed by a general publication, the reference to the general publication by its PSC number must be

given. The following phraseology, as the case may be, will be used: "Governed except as otherwise provided herein by schedule PSC Mo. No., which schedule, revised and added pages or sheets or superseding issues thereof is hereby made a part of this schedule." The rate publication referred to must be on file with the commission and be kept at every place where the schedule making reference is to be kept for public inspection;

(E) The date of issue and the date effective. If the schedule or any portion is made to expire on a specified date, the following clause must be used: "expires, unless sooner changed, canceled or extended";

(F) On every schedule, supplement or revised or added sheet issued on less than thirty (30) days' notice, by permission of the commission, the following notation must be shown: "Issued on ___ days' notice to the public and the commission under special permission of the Public Service Commission of Missouri, No. ___ of date ___." If issued in compliance with an order of the commission, the following notation must be shown: "Issued on ___ days' notice to the public and the commission under order of the Public Service Commission of Missouri, of date ___, in Case No. ___," when issued by authority of any section of this rule, the notice must be that required by the particular section granting permission;

(G) On the upper left-hand corner of a schedule of fewer than three (3) pages and on schedules issued in loose-leaf form, the words, "No supplement to this tariff will be issued except for the purpose of canceling this tariff." A schedule, not in loose-leaf form, of three (3) or more pages shall include the words, "Only one supplement to this schedule will be in effect at any one time"; and

(H) On the marginal space at the bottom of page will be given the name, title and address of the officer by whom the schedule is issued, the date of issue and the effective date.

(10) The schedule shall contain in the order named:

(A) Table of Contents. Provide full and complete statement in alphabetical order of the exact location where information under the general headings or subjects will be found, specifying the page of item numbers. If the schedule contains so small a volume of matter that its title page or interior arrangement plainly may disclose its contents, the table of contents may be omitted;

(B) Description of Territory. A more lengthy description of the territory to be served than can be briefly set forth on the title page will often be necessary; any items

in this category which bear any relation to the various rates should be explained under this heading;

(C) Classification of Service. Under this heading the kind of service separately grouped for commercial lighting, commercial power and street lighting will be set forth in the order named together with a detailed statement of the rate(s) in connection with same. A definite separation must be made between prompt payment discount and quantity discount and stating the manner in which they are computed clearly. If guarantees of any nature are required or a minimum charge made, the principles upon which they are based must be stated. In this case give the company's charges or deposits for meters. If penalties for delayed payments are exacted, the same must be stated. State whether current is estimated or metered and if so, how. State the company's practice in regard to lamp renewals. If a charge is made to the consumer for installing and connecting the service wires, this should be stated. State the character of the service, whether twenty-four (24)-hour or limited until midnight, whether the service is limited to certain hours of the day, on-peak, off-peak, optional service, auxiliary service, breakdown service, and the like. The kind of current, such as alternating or direct, together with the voltage, phase and frequency must be given in all cases;

(D) Rules. Under this heading will be set forth all rules which apply to contracts for furnishing electrical energy for light, heat and power, and all of the company's rules in any way relating to service, together with any particular regulations relating to a special contract for service rendered which have not already been stated in connection with the description of rates under section (5) of this rule; and

(E) Definition and Explanation of Reference Marks. Under this heading, as its name implies, shall be given the necessary description of any reference marks employed in connection with the rate tables, that is, explain the meaning of watt, kilowatt hour, horsepower, and the like. If symbols or abbreviations are used, explain their meanings, such as kilowatt hour for K.W.H.; ampere for amp. When ratings are used based on capacity installation or a percentage of capacity installation, a table of equivalents for estimating these ratings must be given. For example, one (1) sixteen (16)-candle power carbon filament lamp equals about fifty-five (55) watts. If terms maximum demand, load factor, rated capacity, peak, and the like, are used in the schedule, these should be explained under this caption. All definitions of terms and explanation of terms or symbols,



abbreviations or reference marks should be arranged in logical sequence and in a manner that they will be readily understood.

(11) If a schedule or supplement to a schedule is issued which conflicts with a part of another schedule or supplement of a schedule which is in force at the time and which is not canceled in full, it specifically shall state the portion of the other schedule which is canceled and the other schedule, at the same time, shall be correspondingly amended, effective on the same date, in the regular way; and the supplement to the amended schedule shall be filed at the same time and in connection with the schedule which contains the new rates, rentals or charges.

(12) If a schedule is canceled with the purpose of canceling entirely the rates, rentals or charges named in the schedule or when through error or omission, a later issue failed to cancel the previous issue and a schedule is canceled for the purpose of perfecting the record, the cancellation notice must not be given a new PSC number, but must be issued as a supplement to the schedule which it cancels, even though the schedule at the time may have a supplement in effect.

(13) If a schedule or a part of a schedule is canceled, the cancellation notice shall make specific notice to the PSC number of the schedule in which the rates, rentals or charges will be found; or if no rates, rentals or charges are in effect, it shall state so. Cancellation of a schedule also cancels a supplement to the schedule in effect, if any. If a schedule is canceled by a similar schedule to take its place, the cancellation notice must not be given by supplement, but by notice printed in a new schedule.

(14) A change in a schedule shall be known as an amendment and excepting amendments to schedules issued in loose-leaf form, shall be printed in a supplement to the schedule which it amends, specifying the schedule by its PSC number. The supplement shall be reissued each time an amendment is made and shall always contain all the amendments to the schedule that are in force. Supplements to schedules shall be numbered consecutively as supplements to the schedules and shall not be given new or separate PSC numbers. An amendment must always be printed in the supplement in its entirety as amended.

(15) A schedule which contains reissued items brought forward from a previous issue which has not been in effect thirty (30) days or a supplement which brings forward reissued items without change from a former

supplement or schedule, must bear the notation "Effective _____, except as noted in individual items." "Example: Issued _____, 20__; effective _____, 20__ , except as noted in individual items." Reissued items brought forward without change must show in a conspicuous form and convenient manner the following: "Reissue" in black face type; the effective or the date upon which it becomes effective; in PSC Mo. No. _____ "or in supplement No. _____ to PSC Mo. No. _____." When the reissued item became effective in a former supplement to the same schedule, the PSC number may be omitted, but the supplement number must be given.

(16) Except as otherwise provided in this rule, there shall be at no time more than one (1) supplement in effect to any schedule and the effective supplement to a schedule of twenty (20) or more pages may not contain more than twenty percent (20%) of the number of pages or sheets in the schedule, including the title page, a supplement to a schedule of fewer than twenty (20) pages or ten (10) sheets may not contain more than four (4) pages or two (2) sheets, including the title page.

(17) All changes in and additions to schedules issued in loose-leaf form must be made by reprinting both pages of the leaf or sheet upon which the change is made. When no change or addition is made on one (1) of the pages reprinted, it must bear the notation, "No change in this page." Those pages or sheets shall not be given supplement numbers, but must be designated "First revised page or sheet," "Second revised page or sheet," and the like and must show the name of the issuing corporation and the PSC number of the schedule, the issued and effective dates and the name, title and address of officer by whom issued.

(18) If a new schedule is filed on statutory notice canceling another schedule and after that filing and prior to the effective date of the new schedule, a supplement to the schedule to be so canceled should be lawfully issued, the rates, rentals or charges in that supplement could not continue in effect for the thirty (30) days required by law because the cancellation of the schedule also cancels the supplement to it. In this case the supplement containing changes not included in the schedule that is to become effective may be issued as a supplement both to the schedule in effect and to the schedule on file that will effect a cancellation and be given both PSC

numbers. In other words, such an issue must be a supplement of each of the schedules and copies must be filed accordingly. A supplement issued under this rule containing reissued items shall note in connection with each item, in addition to the effective date required by this rule, that the reissued items expire on the date on which the new schedule will apply in lieu thereof; and the reissued items must not be brought forward in a subsequent supplement to the new schedule. This supplement may not contain any changes except those lawfully made by supplement to the schedule which is to be canceled by the schedule that has been filed and that is also supplemented; and no other kind of a supplement to a schedule that is on file and not yet effective may be made effective within thirty (30) days from the effective date of the schedule without special permission of the commission.

(19) The provisions of section (17) of this rule as to the number of supplements to a schedule that may be in effect at any time and the volume of supplemental matter they may contain need not be observed in connection with a supplement issued under sections (15)–(19) of this rule.

(20) In case of change of ownership and operation of any electrical corporation's property or of the electrical corporation in possession and operating the property, the electrical corporation taking over the operation of the properties, if the existing rates would otherwise remain legally effective, shall issue immediately and file with the commission, with PSC number, an adoption notice substantially as follows:

(A) "The (name of the electrical corporation) hereby adopts, ratifies and makes its own, in every respect as if the same had been originally filed by it, all schedules, rules, notices, concurrences, schedule agreements, divisions, authorities or other instruments whatsoever, filed with the PUBLIC SERVICE COMMISSION, State of Missouri, by the (name of the electrical corporation), prior to (date), the beginning of its possession. By this notice it also adopts and ratifies all supplements or amendments to any of the above schedules, etc., which (name of the electrical corporation) has heretofore filed with said commission. This notice may be made effective as of the date it is filed with the commission";

(B) In the event that the successor corporation does not intend to adopt some of those schedules, rates, rules, notices, concurrences, authorities or other instruments, the notice shall specify those which are not adopted,



and the successor corporation as to such exceptions shall give the cancellation or withdrawal notice provided in this rule;

(C) The adoption notice shall stand and be effective as to all of the local issues of the predecessor electrical corporation; and

(D) In case of a receivership, the receiver shall be deemed as continuing in force the schedules and rules of the corporation whose property s/he has in charge.

(21) Schedules and schedule supplements shall be filed with the commission by the proper officer of the electrical corporation designated to perform that duty; and supplements must be on file with the commission or accompany the schedule or supplement.

(22) All changes in rates, charges or rentals or in rules that affect the rates, charges or rentals shall be filed with the commission at least thirty (30) days before the date upon which they are to become effective. The title page of every rate schedule or supplement and the reissue on any page or sheet must show a full thirty (30) days' notice except as otherwise provided in this rule. The proposed change shall be accompanied by a brief summary, approximately one hundred (100) words or less, of the effect of the change on the company's customers. A copy of any proposed change and summary shall also be served on the public counsel and be available for public inspection and reproduction during regular office hours at the general business office of the utility.

(23) Each electrical corporation has the duty of filing with the commission all its schedules of rates and supplements or any rule relative to them which may be announced by the commission, under penalty for failure to do so. The commission will give consistent assistance as it can in this respect, but the fact that the receipt of a rate schedule or a supplement to a rate schedule is acknowledged by the commission, or the fact that a rate schedule or supplement to a rate schedule is in the files of the commission, will not serve or operate to excuse the electrical corporation or municipality from its responsibility or liability for any violation of the law or of any ruling lawfully made which may have occurred in connection thereunder with the construction of filing of a rate schedule or supplement.

(24) Thirty (30) days' notice to the commission is required as to every publication relating to electrical rates or service except where publications are made effective on less than statutory notice by permission, regulation or requirement of the commission.

(25) Except as is otherwise provided, no schedule or supplement will be accepted for filing unless it is delivered to the commission free from all charges or claims for postage, the full thirty (30) days required by law before the date upon which the schedule or supplement is stated to be effective. No consideration will be given to or for the time during which a schedule or supplement may be held by the post office authorities because of insufficient postage. When a schedule or a supplement is issued and as to which the commission is not given the statutory notice, it is as if it had not been issued and a full statutory notice must be given of any reissue. No consideration will be given to telegraphic notices in computing the thirty (30) days' notice required. In these cases the schedule will be returned to the sender and correction of the neglect or omission cannot be made which takes into account any time elapsing between the date upon which that schedule or supplement was received and the date of the attempted correction. For rate schedules and supplements issued on short notice under special permission of the commission, literal compliance with the requirements for notice named in any order, regulation or permission granted by the commission will be exacted.

(26) When a schedule is rejected by the commission as unlawful, the records will so show and that schedule should not in the future be referred to as canceled, amended or otherwise except to note on the publication issued in lieu of that rejected schedule, "In lieu of _____, rejected by the commission;" nor shall the number which it bears be used again.

(27) Rates, charges or rentals or regulations relating to them, prescribed by the commission in its decisions and orders, after hearings upon formal complaints, shall in every instance be promulgated by the electrical corporation against which those orders are entered, in duly published and filed rate schedules, supplements or revised pages or sheets of schedules, and notice shall be sent to the commission that its order in Case No. _____ has been complied with in item _____, page _____, of schedule PSC Mo. No. _____; or supplement to schedule PSC Mo. No. _____; or reissued page or sheet No. _____ to schedule PSC Mo. No. _____.

(28) Schedules and supplements shall be filed in numerical order of PSC numbers. If in any instance this procedure is not observed as required by these rules, a memorandum must accompany the schedule so filed with the

commission explaining omission of missing number(s).

(29) Electrical corporations are directed, in filing schedules, to transmit one (1) copy of each rate schedule, supplement or other charges or regulations for the use of the commission. Schedules sent for filing must be addressed to Public Service Commission, PO Box 360, Jefferson City, MO 65102.

(30) All schedules filed with the commission shall be accompanied by a letter of transmittal, in duplicate if receipt is desired, which shall be prepared consistent with the format designated by the commission.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

4 CSR 240-3.150 Filing Requirements for Electric Utility Promotional Practices

PURPOSE: Electric utilities with promotional practices must meet the filing requirements in this rule prior to offering a promotional practice.

(1) Any promotional practices offered by an electric utility must meet the requirements set out in the commission's rules regarding utility promotional practices (4 CSR 240-14).

(2) No electric utility or its affiliate shall offer or grant any additional promotional practice or vary or terminate any existing promotional practice, directly or indirectly, or in concert with others, or by any means whatsoever, until a tariff filing showing the addition or variation or termination in the form prescribed by this rule has been made with the commission and a copy furnished to each other electric utility providing the same or competing utility service in any portion of the service area of the filing utility.

(A) The utility shall provide the following information on the tariff sheets:

1. The name, number or letter designation of the promotional practice;

2. The class of persons to which the promotional practice is being offered or granted;

3. Whether the promotional practice is being uniformly offered to all persons within that class;

4. A description of the promotional practice and a statement of its purpose or objective;



5. A statement of the terms and conditions governing the promotional practice;

6. If the promotional practice is offered or granted, in whole or in part, by an affiliate or other person, the identity of the affiliate or person and the nature of their participation; and

7. Other information relevant to a complete understanding of the promotional practice.

(3) The utility shall provide the following supporting information for each promotional practice:

(A) A description of the advertising or publicity to be employed with respect to the promotional practice;

(B) For promotional practices that are designed to evaluate the cost-effectiveness of potential demand-side resources, a description of the evaluation criteria, the evaluation plan and the schedule for completing the evaluation; and

(C) For promotional practices that are designed to acquire demand-side resources, documentation of the criteria used and the analysis performed to determine that the demand-side resources are cost-effective.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.155 Requirements for Electric Utility Cogeneration Tariff Filings

PURPOSE: This rule defines the requirements of electric utilities pertaining to the filing of tariffs regarding purchasing electricity generated by small power producers and cogenerators. Additional provisions pertaining to cogeneration are set forth in 4 CSR 240-20.060.

(1) Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA) shall have the same meaning for purposes of this rule as they have under PURPA, unless further defined in this rule.

(2) All regulated electric utilities shall—

(A) File tariffs providing standardized rates for facilities at or under one hundred (100) kilowatts on design capacity. The tariffs are to take account of the stochastic effect achieved by the aggregate output of dispersed small systems, that is, statistically a dispersed array of facilities may produce a level of reliability

not enjoyed by any one (1) of the units taken separately. When that aggregate capacity value which allows the utility to avoid a capacity cost occurs and can be reasonably estimated, a corresponding credit must be included in the standard rates. The tariffs should take into account patterns of availability of particular energy sources such as the benefits to a summer peaking utility from photovoltaic systems or to a winter peaking utility for wind facilities. For the purposes of this rule, rate means any price, rate, charge or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity or any rule or practice respecting any such rate, charge or classification and any contract pertaining to the sale or purchase of electric energy or capacity;

(B) Submit a standard form contract for facilities over one hundred (100) kilowatts as the basis for tariffs for these facilities. Issues such as avoided costs, losses, reliability and ability to schedule are to be considered in the contract.

(3) All tariffs and other data required to be prepared and filed by electric utilities under the provisions of section (2) shall be submitted no later than January 15, 2005, and updated and revised on or before January 15 of every odd-numbered year after that, unless otherwise ordered by the commission.

(4) In order to make available data from which avoided costs may be derived, not later than January 15, 2005, and on or before January 15 of every odd-numbered year after that, unless otherwise ordered by the commission, each regulated electric utility shall provide to the commission and shall maintain for public inspection the following data:

(A) The estimated avoided cost on the electric utility's system, solely with respect to the energy component, for various levels of purchases from qualifying facilities. These levels of purchases shall be stated in blocks of not more than one hundred (100) megawatts for systems with peak demand of one thousand (1,000) megawatts or more, and in blocks equivalent to not more than ten percent (10%) of the system peak demand for systems of less than one thousand (1,000) megawatts. The avoided costs shall be stated on a cents per kilowatt-hour basis, during daily and seasonal peak and off-peak periods, by year, for the current calendar year and each of the next five (5) years;

(B) The electric utility's plans for the addition of capacity by amount and type, for purchases of firm energy and capacity and for

capacity retirements for each year during the succeeding ten (10) years; and

(C) The estimated capacity costs at completion of the planned capacity additions and planned capacity firm purchases, on the basis of dollars per kilowatt and the associated energy costs of each unit, expressed in cents per kilowatt hour. These costs shall be expressed in terms of individual generating units and of individual planned firm purchases.

(5) Special Rule for Small Electric Utilities.

(A) Each electric utility (other than any electric utility to which paragraph (5)(A)2. applies) upon request shall—

1. Provide comparable data to that required under section (4) to enable qualifying facilities to estimate the electric utility's avoided costs for periods described in section (4); or

2. With regard to an electric utility which is legally obligated to obtain all its requirements for electric energy and capacity from another electric utility, provide the data of its supplying utility and the rates at which it currently purchases the energy and capacity.

(B) If any such electric utility fails to provide this information on request, the qualifying facility may apply to the Public Service Commission for an order requiring that the information be provided.

(6) Commission Review.

(A) Any data submitted by an electric utility under this section shall be subject to review by the commission.

(B) In any such review, the electric utility has the burden of coming forward with justification for its projections.

(7) Implementation of Certain Reporting Requirements. Any electric utility which fails to comply with the requirements of subsection (1)(B) shall be subject to the same penalties to which it may be subjected for failure to comply with the requirements of the Federal Energy Regulatory Commission's (FERC's) regulations issued under Section 133 of PURPA.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed July 25, 2003, effective March 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*



4 CSR 240-3.160 Filing Requirements for Electric Utility General Rate Increase Requests

PURPOSE: This rule prescribes information which must be filed by all electric utilities when filing for a general company-wide increase in rates. As noted in the rule, additional provisions pertaining to the filing requirements for general rate increase requests are found at 4 CSR 240-3.030.

(1) In addition to the requirements of 4 CSR 240-3.030, any electric utility which submits a general rate increase request shall submit the following:

(A) Its depreciation study, database and property unit catalog. However, an electric utility need not submit a depreciation study, database or property unit catalog to the extent that the commission's staff received these items from the utility during the three (3) years prior to the utility filing for a general rate increase or before five (5) years have elapsed since the last time the commission's staff received a depreciation study, database and property unit catalog from the utility. The depreciation study, database and property unit catalog shall be compiled as follows:

1. The study shall reflect the average life and remaining life of each primary plant account or subaccount;

2. The database shall consist of dollar amounts, by plant account or subaccount, representing—

A. Annual dollar additions and dollar retirements by vintage year and year retired, beginning with the earliest year of available data;

B. Reserve for depreciation;

C. Surviving plant balance as of the study date; and

D. Estimated date of final retirement and surviving dollar investment for each warehouse, electric generating facility, combustion turbine, general office building or other large structure; and

3. The property unit catalog shall contain a description of each retirement unit used by the utility.

AUTHORITY: section 386.250, RSMo 2000.* Original rule filed Aug. 16, 2002, effective April 30, 2003.

*Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.

4 CSR 240-3.165 Annual Report Submission Requirements for Electric Utilities

PURPOSE: Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission. This rule establishes the standards for the submission of annual reports by electric utilities that are subject to the jurisdiction of the commission, including the procedures for submitting nonpublic annual report information.

(1) All electric utilities shall submit an annual report to the commission on or before April 15 of each year, except as otherwise provided for in this rule.

(2) Electric utilities shall submit their annual reports either on a form provided by the commission or on a computer-generated replica that is acceptable to the commission. Reports being submitted on paper are to be prepared in looseleaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official commission forms with appropriate cross-references will be considered noncompliant. All requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(3) An electric utility that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

(4) If an electric utility subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant. In addition to the foregoing, submittals made under this section must meet the following requirements:

(A) A cover letter stating that the utility is designating some or all of the information in its annual report as confidential information, and including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

(B) The cover of each version of the report must clearly identify whether it is the public or nonpublic version;

(C) A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

(D) Each page of each version of the report that contains nonpublic information shall be clearly identified as containing such information.

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

(6) An electric utility that is unable to meet the submission date established in section (1) of this rule may obtain an extension of up to thirty (30) days for submitting its annual report by:

(A) Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

(B) Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.



(7) An electric utility that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and

(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(8) Responses to deficiency notices under the provisions of section (3) of this rule, requests for confidential treatment under the provisions of section (4) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions of section (5) of this rule, and requests for extensions of time under the provisions of sections (6) or (7) of this rule may be submitted through the commission's electronic filing and information system (EFIS).

(9) An electric utility that does not timely file its annual report, or its response to a notice that its annual report is deficient, is subject to a penalty of one hundred dollars (\$100) and an additional penalty of one hundred dollars (\$100) for each day that it is late in filing its annual report or its response to a notice of deficiency.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003, effective April 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

4 CSR 240-3.175 Submission Requirements for Electric Utility Depreciation Studies

PURPOSE: This rule sets forth the requirements regarding the submission of depreciation studies by electric utilities.

(1) Each electric utility subject to the commission's jurisdiction shall submit a depreciation study, database and property unit catalog to the manager of the commission's energy department and to the Office of the Public Counsel, as required by the terms of subsection (1)(B).

(A) The depreciation study, database and property unit catalog shall be compiled as follows:

1. The study shall reflect the average life and remaining life of each primary plant account or subaccount;

2. The database shall consist of dollar amounts, by plant account or subaccount, representing—

A. Annual dollar additions and dollar retirements by vintage year and year retired, beginning with the earliest year of available data;

B. Reserve for depreciation;

C. Surviving plant balance as of the study date; and

D. Estimated date of final retirement and surviving dollar investment for each warehouse, electric generating facility, combustion turbine, general office building or other large structure; and

3. The property unit catalog shall contain a description of each retirement unit used by the company.

(B) An electric utility shall submit its depreciation study, database and property unit catalog on the following occasions:

1. On or before the date adjoining the first letter of the name under which the corporation does business, excluding the word the, as indicated by the tariffs on file with the commission.

A. The alphabetical categories and submission due dates are as follows:

(I) A, B, C, D: January 1, 1994;

(II) E, F, G, H: July 1, 1994;

(III) I, J, K, L: January 1, 1995;

(IV) M, N, O, P: July 1, 1995;

(V) Q, R, S, T: January 1, 1996;

and

(VI) U, V, W, X, Y, Z: July 1,

1996.

B. However—

(I) An electric utility need not submit a depreciation study, database or property unit catalog to the extent that the commission's staff received these items from the utility during the three (3) years prior to the due dates listed in subparagraph (1)(B)1.A.; and

(II) A utility with simultaneous due dates under subparagraph (1)(B)1.A. above and 4 CSR 240-3.275(1)(B)1. may postpone its due date with respect to one (1) of these rules by six (6) months. To exercise this option, the utility must give written notice of its intent to postpone compliance to the manager of the commission's energy department, and to the Office of the Public Counsel, before the utility's first due date;

2. Before five (5) years have elapsed since the last time the commission's staff

received a depreciation study, database and property unit catalog from the utility.

(2) The commission may waive or grant a variance from the provisions of this rule, in whole or in part, for good cause shown, upon a utility's written application.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.180 Submission of Electric Utility Residential Heat-Related Service Cold Weather Report

PURPOSE: This rule sets forth the requirements for electric utilities to submit reports regarding services provided during the commission's designated cold weather period.

(1) Each utility providing heat-related utility service shall submit a report to the consumer services department of the commission for each calendar month no later than the twentieth day of the following month. The utility shall provide a copy of each report to the Office of the Public Counsel. The utility shall report for each operational district into which the utility has divided its Missouri service territory the number of days it was permitted to discontinue service under 4 CSR 240-13.055, and the utility shall separately report on the information listed below for customers receiving energy assistance and customers who are affected by 4 CSR 240-13.055 and known not to be receiving energy assistance. All information submitted shall be considered public information; however, no customer-specific information shall be reported or made public. Utilities providing both electric and gas service shall report the information separately for their gas-only territory.

(A) How many customers were:

1. Disconnected at the end of the period;

2. Of those disconnected, how many customers had service discontinued for non-payment during the period;

3. Of those discontinued during the period, how many customers were restored to service during the period.

(B) Of customers reported as disconnected at the end of the period:

1. How many had broken a cold weather rule pay agreement;

2. How many had broken a non-cold weather rule pay agreement;



3. How many had not been on a pay agreement.

(C) Of those customers reconnected during the period:

1. How many customers received energy assistance (pledged or paid) from:

A. Low Income Home Energy Assistance Program (LIHEAP);

B. Energy Crisis Intervention Program (ECIP);

C. Other sources known to the utility.

2. How much energy assistance was provided by:

A. LIHEAP;

B. ECIP;

C. Other sources known to the utility;

D. Customer.

(D) Of customers restored to service during the period:

1. How many were put on a cold weather rule pay agreement;

2. How many were put on a non-cold weather rule pay agreement.

(E) How much was owed by those disconnected at the end of the period:

1. How much was owed by those disconnected during the period;

2. How much was owed by those reconnected during the period.

(F) How many customers were registered under 4 CSR 240-13.055(1)(D) at the end of the period:

1. How many customers registered during the period;

2. How many of such registered customers had service discontinued during the period.

(G) For how many customers during the period did the utility receive:

1. LIHEAP;

2. ECIP;

3. Other assistance known to the utility.

(H) How much cash did the utility receive on behalf of customers during the period from:

1. LIHEAP;

2. ECIP;

3. Others known to the utility.

(I) How many customers who requested reconnection under terms of this rule were refused service pursuant to section 4 CSR 240-13.055(9).

(J) How many customers received energy assistance insufficient in amount to retain or restore service.

(K) The number of customers who agreed to pay for their heat-related utility service under a payment agreement in accordance with 4 CSR 240-13.055.

April 30, 2003. Amended: Filed April 24, 2003, effective Dec. 30, 2003.

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.185 Submission of Reports Pertaining to the Decommissioning of Electric Utility Plants

PURPOSE: Electric utilities with nuclear plants must submit the reports pertaining to the decommissioning trust fund of the nuclear plants as outlined in this rule. The rule pertaining to decommissioning trust funds may be found at 4 CSR 240-20.070.

(1) The utility or the trustee shall file reports quarterly to the commission. The reports shall contain the following information:

(A) A total of all jurisdictional balances of the trust fund(s) based on a carrying cost (book) value;

(B) A total of all jurisdictional balances of the trust fund(s) based on a market value;

(C) A Missouri jurisdictional balance of the trust fund(s) based on a carrying cost (book) value;

(D) A Missouri jurisdictional balance of the trust fund(s) based on a market value;

(E) A summary of the trust account including the utility's contributions, incomes, expenses and a weighted average after-tax return for the quarter;

(F) A portfolio summary per asset class by amount and percentage;

(G) A detailed report of daily transactions; and

(H) Any other information the commission orders the utility or trustee to provide.

(2) In addition, the utility or the trustee shall file reports annually to the commission that contain the following information:

(A) An asset maturity schedule;

(B) A summary of the trust's portfolio of investments including a listing of each security detailing the carrying cost, current market value, maturity date, estimated annual income and the yield to maturity;

(C) A copy of all correspondence including income tax returns and tax exempt rulings concerning the trust with the Internal Revenue Service (IRS) or any state revenue agency; and

(D) Any other information the commission orders the utility or trust to provide.

(3) On or before September 1, 1990 and every three (3) years after that, utilities with decommissioning trust funds shall perform

and file with the commission cost studies detailing the utilities' latest cost estimates for decommissioning their nuclear generating unit(s) along with the funding levels necessary to defray these decommissioning costs. These studies shall be filed along with appropriate tariff(s) effectuating the change in rates necessary to accomplish the funding required. In addition, the commission, at any time for just cause, may require a utility to file an updated decommissioning cost study, funding requirement and associated tariff(s).

(4) At the time a tariff(s) is filed by a utility which proposes any change in rates due to changes in the estimate of decommissioning cost or the funding level of its nuclear decommissioning trust fund(s), the utility shall file the following minimum information in support of the need for changes in its tariff rates:

(A) An updated decommissioning cost study which estimates the cost of decommissioning and the funding levels necessary to defray these costs. This study shall contain the following information:

1. Detailed quantities and unit prices in current dollars for each system of the nuclear generating unit to be decommissioned;

2. A detailed breakdown between radioactive contaminated systems and those systems which are not contaminated by radioactivity;

3. Funding levels which are computed on a levelized basis and which accrue future decommissioning costs over the remaining licensed life of the nuclear generating unit. The utility shall include the earnings rate and inflation rate assumed in the cost study as compared to those assumed in any previous study;

4. A detailed description of any facilities that were added to or deleted from the cost study filed in the previous case;

5. The beginning date for the expenditure of funds for decommissioning assumed in the study shall be no later than the expiration date of the unit's current Nuclear Regulatory Commission (NRC) license; and

6. The study shall consider and evaluate all reasonable practices or procedures which would reduce the ultimate cost of decommissioning; and

(B) A summary description of the reasons (for example, changes in regulation, technology or economics) that brought on the need to change the decommissioning cost estimate.

(5) Upon proper application and after due notice and hearing, the commission may waive any provision of this rule for good cause shown.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective*



AUTHORITY: sections 386.250 and 393.292, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.292, RSMo 1989.*

4 CSR 240-3.190 Reporting Requirements for Electric Utilities and Rural Electric Cooperatives

PURPOSE: This rule prescribes requirements and procedures for the reporting of certain events by electric utilities to the commission to inform the commission of developments which may affect the rendering of safe and adequate service and to enable the commission to thoroughly and fairly investigate certain events, which may have an impact in future electric rate proceedings at the time and in the context in which those events occur. This rule also includes electrical facilities incident reporting requirements for electric cooperatives.

(1) Commencing on September 1, 1991, every electric utility shall accumulate the following information and transmit it to the manager of the Energy Department of the commission, or his/her designee, no later than the last business day of the month following the month to be reported and after that on a monthly basis:

(A) All generating unit outages and derates, excluding hydroelectric generating units and units whose capacity comprises less than one and one-half percent (1 1/2%) of the electric utilities installed capacity;

(B) All fuel purchases for power production purposes, including the terms of those purchases. A copy of the Monthly Report of Cost and Quality of Fuels for Electric Plants on FERC Form No. 423, as submitted to the Federal Energy Regulatory Commission (FERC), will satisfy the requirements of this subsection;

(C) Monthly as-burned fuel report for each carbon-based fuel generating unit, including the amount of each type of fuel consumed, the British thermal unit (Btu) value of each fuel consumed, and the blending percentages (if applicable);

(D) Net system input for the electric utility;

(E) Net hourly generation for each generating unit;

(F) Megawatt amount and delivery prices of hourly purchases and sales of electricity from or to other electrical services providers, independent power producers or cogenera-

tors, including the parties to purchases and sales, and the terms of purchases and sales;

1. If adjustments are made to the price of hourly purchases after the purchase is made, provide the amount of the adjustment and the time period over which the adjustment was made;

(G) Capacity purchases of longer than seven (7) days' duration;

(H) Planned outages of power production facilities, as they are scheduled or rescheduled. Changes from the planned outage schedule must be reported by telephone or electronic transmission to the manager of the Energy Department of the commission or his/her designee prior to the initiation of the outage, if the changes result in the planned outage schedule being different from the schedule in the most recently submitted monthly report;

(I) Planned fuel test burns, unit heat-rate tests and accreditation runs as they are scheduled or rescheduled. Changes from previously planned fuel test burns, unit heat-rate tests and accreditation runs must be reported by telephone or electronic transmission to the manager of the Energy Department of the commission or his/her designee prior to their initiation, if these changes result in the schedule for fuel test burns, unit heat-rate tests and accreditation runs being different from the schedule in the most recently submitted monthly report;

(J) Citations or notices of violation related to power production facilities received from any state or federal utility regulatory agency or environmental agency including, but not limited to, the FERC, the Nuclear Regulatory Commission (NRC), the Environmental Protection Agency (EPA), the Department of Natural Resources (DNR) and the Department of Energy (DOE);

(K) The terms of new contracts or existing contracts which will be booked to Accounts 310-346 or Accounts 502-546 of the FERC's Uniform System of Accounts requiring the expenditure by the electric utility of more than one hundred thousand dollars (\$100,000) including, but not limited to, contracts for engineering, consulting, repairs and modifications or additions to an electric plant; and

(L) Copies of all written reports on forced generating unit outages of longer than three (3) days, test burns of fuel, heat-rate tests, accreditation runs and responses to state or federal utility regulatory agencies or environmental agencies including, but not limited to, the FERC, the NRC, the EPA, the DNR and the DOE, concerning any alleged infractions, deviations or noncompliance with those agen-

cies' rules or standards related to power production facilities.

(2) Any of the information required in section (1) of this rule may be provided to the manager of the Energy Department of the commission or his/her designee in electronic format. The electronic files may be submitted through the commission's Electronic Filing and Information System (EFIS).

(3) Every electric utility shall report to the manager of the Energy Department of the commission or his/her designee by telephone or through EFIS by the end of the first business day following discovery, the information described in subsections (3)(A)-(E) below. The electric utility shall submit, either by mail or through EFIS within five (5) business days following the discovery, an update of the incident and any details not available at the time of the initial report:

(A) Details of any accident at a power plant involving serious physical injury or death or property damage in excess of one hundred thousand dollars (\$100,000);

(B) Forced outages of any nuclear generating unit(s) that could reasonably be anticipated to last longer than three (3) days;

(C) Forced outages of any fossil-fuel fired generating unit(s) which constitutes twenty percent (20%) or more of the electric utility's accredited capacity that reasonably could be anticipated to last longer than three (3) days, when the unit(s) is forced out due to a common occurrence;

(D) Reductions of coal inventory below a thirty (30)-day supply and reductions of oil inventory below fifty percent (50%) of normal oil inventory; and

(E) Loss of transmission capability that could limit the output of a generating plant.

(4) Every electric utility and rural electric cooperative shall report to the manager of the Energy Department of the commission or his/her designee, by telephone or through EFIS, a brief description of an accident by the end of the first business day following the discovery of any accident resulting from electrical contact with its energized electrical supply facilities which results in admission to a hospital or the fatality of an employee or other person or any other accident resulting from electrical contact considered significant by the utility. The electric utility or rural electric cooperative shall submit, either by mail or through EFIS within five (5) business days following the discovery, an update of the incident and any details not available at the time of the initial report.



(5) All reports and information submitted by electric utilities and rural electric cooperatives pursuant to this rule shall be subscribed by the president, treasurer, general manager, receiver or other authorized representative of the electric utility or rural electric cooperative having knowledge of the subject matter and shall be stated to be accurate and complete, and contain no material misrepresentations or omissions, based upon facts of which the person subscribing the report or information has knowledge, information or belief. Any information submitted through EFIS will bear the electronic signature of the utility representative who is submitted it.

(6) The reporting requirements prescribed by this rule shall be in addition to all other reporting requirements prescribed by law.

(7) The information contained in the reports filed pursuant to this rule shall be subject to the provisions of section 386.480, RSMo and the use of that information in any proceeding before the commission shall be governed by the terms of any protective order issued by the commission in the proceeding, if a protective order has been issued.

(8) The receipt by the commission or commission staff of reports prescribed by this rule shall not bind the commission or commission staff to the approval or acceptance of, or agreement with any matter contained in the reports for the purpose of fixing rates or in determining any other issue that may come before the commission.

(9) Upon proper application and after notice and an opportunity for hearing, the commission, in its discretion, may waive any provision of this rule for good cause shown.

AUTHORITY: sections 386.250 and 394.160, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Oct. 14, 2003, effective April 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 394.160, RSMo 1939, amended 1949, 1984.*

4 CSR 240-3.200 Definitions Pertaining Specifically to Gas Utility Rules

PURPOSE: This rule sets forth the definitions of certain terms used in rules 4 CSR 240-3.205 through 4 CSR 240-3.295, which are in addition to the definitions set forth in rule 4 CSR 240-3.010 of this chapter.

(1) Affiliate means any person who, directly or indirectly, controls or is controlled by or is under common control with a gas utility.

(2) Appliance or equipment means any device which consumes gas energy and any ancillary device required for its operation.

(3) Consideration shall be interpreted in its broadest sense and shall include any cash, donation, gift, allowance, rebate, discount, bonus, merchandise (new or used), property (real or personal), labor, service, conveyance, commitment, right or other thing of value.

(4) Control (including the terms “controlling,” “controlled by,” and “common control”) means the possession, directly or indirectly, of the power to direct, or to cause the direction of the management or policies of an entity, whether such power is exercised through one (1) or more intermediary entities, or alone, or in conjunction with, or pursuant to an agreement with, one (1) or more other entities, whether such power is exercised through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, affiliated entities, contract or any other direct or indirect means. The commission shall presume that the beneficial ownership of ten percent (10%) or more of voting securities or partnership interest of an entity constitutes control for purposes of this rule. This provision, however, shall not be construed to prohibit a regulated gas corporation from rebutting the presumption that its ownership interest in an entity confers control.

(5) Cost-effective means that the present value of life-cycle benefits is greater than the present value of life-cycle costs to the provider of an energy service.

(6) Demand-side resource means any inefficient energy-related choice that can be influenced cost-effectively by a utility. The meaning of this term shall not be construed to include load-building program.

(7) Designated commission personnel means the commission’s Pipeline Safety Program Manager at the address contained in 4 CSR 240-40.020(5) for written reports and the list of staff personnel supplied to the operators for telephonic notices, both as are required by 4 CSR 240-40.020.

(8) Gas means natural gas, flammable gas, manufactured gas or gas which is toxic or corrosive.

(9) Gas seller means any person who uses, leases, or controls the distribution system of a distributor or a political subdivision or any part thereof to sell energy services at retail within a political subdivision, other than a distributor or a political subdivision.

(10) Inefficient energy-related choice means any decision that causes the life-cycle cost of providing an energy service to be higher than it would be for an available alternative choice.

(11) Load-building program means an organized promotional effort by a utility to persuade energy-related decision makers to choose the form of energy supplied by that utility instead of other forms of energy for the provision of energy service or to persuade customers to increase their use of that utility’s form of energy, either by substituting it for other forms of energy or by increasing the level or variety of energy services used. This term is not intended to include the provision of technical or engineering assistance, information about filed rates and tariffs or other forms of routine customer service.

(12) Operator means a person who engages in the transportation of gas.

(13) Pipeline or pipeline system means all parts of those physical facilities through which gas moves in transportation including, but not limited to, pipe, valves and other appurtenances attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders and fabricated assemblies.

(14) Pipeline facility means new and existing pipeline, rights-of-way and any equipment, facility or building used in the transportation of gas or in the treatment of gas during the course of transportation.

(15) Promotional practices means any consideration offered or granted by a gas utility or its affiliate to any person for the purpose, express or implied, of inducing the person to select and use the service or use additional service of the utility or to select or install any appliance or equipment designed to use the utility service, or for the purpose of influencing the person’s choice or specification of the efficiency characteristics of appliances, equipment, buildings, utilization patterns or operating procedures. The term promotional practices shall not include the following activities:

(A) Making any emergency repairs to appliances or equipment of customers;



(B) Providing appliances or equipment incidental to demonstrations of sixty (60) days or less in duration;

(C) Providing light bulbs, street or outdoor lighting service, wiring, service pipe or other service equipment or appliances, in accordance with tariffs filed with and approved by the commission;

(D) Providing appliances or equipment to an educational institution for the purpose of instructing students in the use of the appliances or equipment;

(E) Merchandising appliances or equipment at retail and, in connection therewith, the holding of inventories, making and fulfillment of reasonable warranties against defects in material and workmanship existing at the time of delivery and financing; provided that the merchandising shall not violate any prohibition contained in 4 CSR 240-14.020;

(F) Inspecting and adjusting of appliances or equipment by a gas utility;

(G) Repairing and other maintenance to appliances or equipment by a gas utility if charges are at cost or above;

(H) Providing free or below-cost energy audits or other information or analysis regarding the feasibility and cost-effectiveness of improvements in the efficiency characteristics of appliances, equipment, buildings, utilization patterns or operating procedures;

(I) Offering to present or prospective customers by a gas utility technical or engineering assistance; and

(J) Advertising or publicity by a gas utility which is under its name and on its behalf and which does not in any manner, directly or indirectly, identify, describe, refer to, mention or relate to any architect, builder, engineer, subdivider, developer or other similar person, or which mentions no less than three (3) existing projects, developments or subdivisions.

(16) Service line means a distribution line that transports gas from a common source of supply to a) a customer meter or the connection to a customer's piping, whichever is farther downstream, or b) the connection to a customer's piping if there is no customer meter. A customer meter is the meter that measures the transfer of gas from an operator to a consumer.

(17) Transmission line means a pipeline, other than a gathering line, that:

(A) Transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not downstream from a distribution center (A

large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas);

(B) Operates at a hoop stress of twenty percent (20%) or more of specified minimum yield strength (SMYS); or

(C) Transports gas within a storage field.

(18) Transportation of gas means the receipt of gas at one point on a regulated gas corporation's system and the redelivery of an equivalent volume of gas to the retail customer of the gas at another point on the regulated gas corporation's system including, without limitation, scheduling, balancing, peaking, storage, and exchange to the extent such services are provided pursuant to the regulated gas corporation's tariff, and includes opportunity sales.

(19) Yard line means an underground fuel line that transports gas from the service line to the customer's building. If multiple buildings are being served, building shall mean the building nearest to the connection to the service line. For purposes of this definition, if above-ground fuel line piping at the meter location is located within five feet (5') of a building being served by that meter, it shall be considered to the customer's building and no yard line exists. At meter locations where above-ground fuel line piping is located greater than five feet (5') from the building(s) being served, the underground fuel line from the meter to the entrance into the nearest building served by that meter shall be considered the yard line and any other lines are not considered yard lines.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.205 Filing Requirements for Gas Utility Applications for Certificates of Convenience and Necessity

PURPOSE: Applications to the commission requesting that the commission grant a certificate of convenience and necessity must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for a certificate of

convenience and necessity by a gas company shall include the following information:

(A) If the application is for a service area—

1. A statement as to the same or similar utility service, regulated and nonregulated, available in the area requested;

2. If there are ten (10) or more residents or landowners, the name and address of no fewer than ten (10) persons residing in the proposed service area or of no fewer than ten (10) landowners in the event there are no residences in the area, or, if there are fewer than ten (10) residents or landowners, the name and address of all residents and landowners;

3. The legal description of the area to be certificated;

4. A plat drawn to a scale of one-half inch (1/2") to the mile on maps comparable to county highway maps issued by the Missouri Department of Transportation or a plat drawn to a scale of two thousand feet (2,000') to the inch; and

5. A feasibility study containing plans and specifications for the utility system and estimated cost of the construction of the utility system during the first three (3) years of construction; plans for financing; proposed rates and charges and an estimate of the number of customers, revenues and expenses during the first three (3) years of operations;

(B) If the application is for gas transmission lines—

1. A description of the route of construction and a list of all electric and telephone lines of regulated and nonregulated utilities, railroad tracks or any underground facility, as defined in section 319.015, RSMo, which the proposed construction will cross;

2. The plans and specifications for the complete construction project and estimated cost of the construction project or a statement of the reasons the information is currently unavailable and a date when it will be furnished; and

3. Plans for financing;

(C) When no evidence of approval of the affected governmental bodies is necessary, a statement to that effect;

(D) When approval of the affected governmental bodies is required, evidence must be provided as follows:

1. When consent or franchise by a city or county is required, approval shall be shown by a certified copy of the document granting the consent or franchise, or an affidavit of the applicant that consent has been acquired; and

2. A certified copy of the required approval of other governmental agencies; and



(E) The facts showing that the granting of the application is required by the public convenience and necessity.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.210 Filing Requirements for Gas Utility Applications for Authority to Sell, Assign, Lease or Transfer Assets

PURPOSE: Applications to the commission for the authority to sell, assign, lease or transfer assets must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to sell, assign, lease or transfer assets shall include:

(A) A brief description of the property involved in the transaction, including any franchises, permits, operating rights or certificates of convenience and necessity;

(B) A copy of the contract or agreement of sale;

(C) The verification of proper authority by the person signing the application or a certified copy of resolution of the board of directors of each applicant authorizing the proposed action;

(D) The reasons the proposed sale of the assets is not detrimental to the public interest;

(E) If the purchaser is subject to the jurisdiction of the commission, a balance sheet and income statement with adjustments showing the results of the acquisitions of the property; and

(F) A statement of the impact, if any, the sale, assignment, lease or transfer of assets will have on the tax revenues of the political subdivisions in which any structures, facilities or equipment of the companies involved in that sale are located.

(2) If the purchaser is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(3) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.215 Filing Requirements for Gas Utility Applications for Authority to Merge or Consolidate

PURPOSE: Applications to the commission for the authority to merge or consolidate must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to merge or consolidate shall include:

(A) A copy of the proposed plan and agreement of corporate merger and consolidation, including organizational charts depicting the relationship of the merging entities before and after the transaction;

(B) A certified copy of the resolution of the board of directors of each applicant authorizing the proposed merger and consolidation;

(C) The balance sheets and income statements of each applicant and a balance sheet and income statement of the surviving corporation;

(D) The reasons the proposed merger is not detrimental to the public interest;

(E) An estimate of the impact of the merger on the company's Missouri jurisdictional operations relative to the merger and acquisition in question; and

(F) A statement of the impact, if any, the merger or consolidation will have on the tax revenues of the political subdivision in which any structures, facilities or equipment of the companies involved are located.

(2) If the purchaser is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(3) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.220 Filing Requirements for Gas Utility Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness

PURPOSE: Applications to the commission for the authority to issue stock, bonds, notes or other evidences of indebtedness must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to issue stock, bonds, notes and other evidences of indebtedness shall contain the following:

(A) A brief description of the securities which applicant desires to issue;

(B) A statement of the purpose for which the securities are to be issued and the use of the proceeds;

(C) Copies of executed instruments defining the terms of the proposed securities—

1. If these instruments have been previously filed with the commission, a reference to the case number in which the instruments were furnished;

2. If these instruments have not been executed at the time of filing, a statement of the general terms and conditions to be contained in the instruments which are proposed to be executed; and

3. If none of these instruments is either executed or to be executed, a statement of how the securities are to be sold;

(D) A certified copy of resolutions of the directors of applicant authorizing the issuance of the securities;

(E) A balance sheet and income statement with adjustments showing the effects of the issuance of the proposed securities upon—

1. Bonded and other indebtedness; and

2. Stock authorized and outstanding;

(F) A statement of what portion of the issue is subject to the fee schedule in section 386.300, RSMo; and

(G) A five (5)-year capitalization expenditure schedule as required by section 393.200, RSMo.

(2) If any of the items required under this rule are unavailable at the time the application is



filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.225 Filing Requirements for Gas Utility Applications for Authority to Acquire the Stock of a Public Utility

PURPOSE: Applications to the commission for the authority to acquire the stock of a public utility must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to acquire the stock of a public utility shall include:

(A) A statement of the offer to purchase stock of the public utility or a copy of any agreement entered with shareholders to purchase stock;

(B) A certified copy of the resolution of the directors of applicant authorizing the acquisition of the stock; and

(C) Reasons why the proposed acquisition of the stock of the public utility is not detrimental to the public interest.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.230 Filing Requirements for Gas Storage Companies Requesting the Authority to Acquire Property Through Eminent Domain Proceedings

PURPOSE: Applications to the commission for the authority to acquire property through eminent domain proceedings must meet the requirements of this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for gas storage companies for authority to acquire property through eminent domain proceedings shall include:

(A) The legal description of the areas to be acquired;

(B) A map showing the areas to be acquired;

(C) Names and addresses of all persons who may have any legal or equitable title of record in the property to be acquired; and

(D) The reasons it is necessary to acquire the property and why it is in the public interest.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.235 Filing Requirements for Gas Utility General Rate Increase Requests

PURPOSE: This rule prescribes information which must be filed by all gas utilities when filing for a general company-wide increase in rates. As noted in the rule, additional provisions pertaining to the filing requirements for general rate increase requests are found at 4 CSR 240-3.030.

(1) In addition to the requirements of 4 CSR 240-3.030, any gas utility which submits a general rate increase request shall submit the following:

(A) Its depreciation study, database and property unit catalog. However, a gas utility need not submit a depreciation study, database or property unit catalog to the extent that the commission's staff received these items from the utility during the three (3) years prior to the utility filing for a general rate increase or before five (5) years have elapsed since the last time the commission's staff received a depreciation study, database and property unit catalog from the utility. The depreciation study, database and property unit catalog shall be compiled as follows:

1. The study shall reflect the average life and remaining life of each primary plant account or subaccount;

2. The database shall consist of dollar amounts, by plant account or subaccount, representing—

A. Annual dollar additions and dollar retirements by vintage year and year retired, beginning with the earliest year of available data;

B. Reserve for depreciation;

C. Surviving plant balance as of the study date; and

D. Estimated date of final retirement and surviving dollar investment for each warehouse, propane/air production facility, liquefied natural gas facility, underground natural gas storage facility, general office building or other large structure; and

3. The property unit catalog shall contain a description of each retirement unit used by the utility.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.240 Gas Utility Small Company Rate Increase Procedure

PURPOSE: This rule provides procedures for small gas utilities to obtain rate increases.

(1) Notwithstanding any other rule to the contrary, small companies, as defined in this rule, may seek a general increase in revenues through a small company rate case by filing a letter requesting the change. The request shall not be accompanied by any tariff sheets. For the purpose of this rule, small companies qualifying to use the small company rate case described in this rule shall include gas utilities having three thousand (3,000) or fewer customers. The small company rate case shall be conducted as follows:

(A) The original letter requesting the change shall be filed with the secretary of the commission and one (1) copy shall be furnished to the public counsel. The letter shall state the amount of the additional revenue requested, the reason(s) for the proposed change and a statement that all commission annual assessments have been paid in full or are being paid under an installment plan. The letter should also include a statement that the company's current annual report is on file with the commission. The company, in writing, shall notify customers of the request for additional revenue and the effect on the typical residential customer's bill. The notice shall indicate that customers' responses may



be sent to the appropriate commission department or the public counsel within thirty (30) days of the date shown on the notice. A draft copy of the notice shall be sent to the appropriate commission department for verification of the accuracy of the notice before being sent to the company's customers. A copy of the final notice shall then be sent to the appropriate commission department and the public counsel. The commission staff and the public counsel shall exchange copies of customer responses upon their receipt. Upon receipt of the company's request, the commission staff shall schedule an investigation of the company's operations and an audit of its financial records. When the investigation and audit are complete, the commission staff shall notify the company and public counsel whether the requested additional revenue is recommended in whole or in part, of the rate design proposal for the increase, and of any recommended operational changes. If public counsel wishes to conduct an investigation and audit of the company, it must do so within the same time period as staff's investigation and audit;

(B) The commission staff, within twenty-one (21) days from the completion of its investigation, shall arrange a conference with the company and shall notify the public counsel of the conference prior to the conference, in order to provide the public counsel an opportunity to participate;

(C) If the conference between the commission staff, the company and the public counsel results in an agreement concerning additional revenue requirements and any other matters pertaining to the company's operations, including responses to customer concerns, the agreement between the commission staff, the company and the public counsel shall be reduced to writing. The company may then file tariff sheet(s) with an effective date which is not fewer than thirty (30) days after the tariff's issue date and no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. The company shall file a copy of the agreement with its tariff;

(D) If the conference results in an agreement between the commission staff and the company only, the company at this time shall file the necessary tariff sheet(s) with the commission in accordance with the agreement. The tariff sheet(s) shall contain an effective date of not fewer than forty-five (45) days from the issue date. The company shall notify customers in writing of the proposed rates resulting from the agreement. The notice shall indicate that customers' responses may be sent to the appropriate commission department or the public counsel within twenty (20)

days of the date shown on the notice. A copy of the notice shall be sent to the secretary of the commission and the public counsel. The commission staff and the public counsel shall exchange copies of the customer responses upon their receipt. The public counsel shall file a pleading indicating its agreement or disagreement with the tariff sheet(s) within twenty-five (25) days of the date the tariff sheet(s) is filed, unless a public hearing is requested;

(E) A request for a local public hearing may be filed after the tariff sheet(s) is filed by the company. The request shall be filed within twenty (20) days of the filing of the tariff sheet(s) by the company. Public counsel shall file a pleading indicating agreement or disagreement with the tariff sheet(s) within seven (7) days after the local public hearing;

(F) An agreement must be reached and tariff sheet(s) filed based upon the agreement within one hundred fifty (150) days from the date the letter initiating the case is filed. This time period may be extended with the consent of the company. Written consent for an extension shall be filed with the company's tariff; and

(G) If no agreement can be reached between the commission staff and the company, the company may initiate a standard rate case.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.245 Annual Report Submission Requirements for Gas Utilities

PURPOSE: Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission. This rule establishes the standards for the submission of annual reports by gas utilities that are subject to the jurisdiction of the commission, including the procedures for submitting nonpublic annual report information.

(1) All gas utilities shall submit an annual report to the commission on or before April 15 of each year, except as otherwise provided for in this rule.

(2) Gas utilities shall submit their annual reports either on a form provided by the commission or on a computer-generated replica that is acceptable to the commission. Reports

being submitted on paper are to be prepared in loose-leaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official commission forms with appropriate cross-references will be considered noncompliant. All requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(3) A gas utility that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

(4) If a gas utility subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant. In addition to the foregoing, submittals made under this section must meet the following requirements:

(A) A cover letter stating that the utility is designating some or all of the information in its annual report as confidential information, and including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

(B) The cover of each version of the report must clearly identify whether it is the public or nonpublic version;

(C) A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

(D) Each page of each version of the report that contains nonpublic information shall be clearly identified as containing such information.



(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

(6) A gas utility that is unable to meet the submission date established in section (1) of this rule may obtain an extension of up to thirty (30) days for submitting its annual report by:

(A) Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

(B) Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(7) A gas utility that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and

(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(8) Responses to deficiency notices under the provisions of section (3) of this rule, requests for confidential treatment under the provisions of section (4) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions of section (5) of this rule, and requests for extensions of time under the provisions of sections (6) or (7) of this rule may be sub-

mitted through the commission's electronic filing and information system (EFIS).

(9) A gas utility that does not timely file its annual report, or its response to a notice that its annual report is deficient, is subject to a penalty of one hundred dollars (\$100) and an additional penalty of one hundred dollars (\$100) for each day that it is late in filing its annual report or its response to a notice of deficiency.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003, effective April 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

4 CSR 240-3.250 Submission of Gas Utility Residential Heat-Related Service Cold Weather Report

PURPOSE: This rule sets forth the requirements for gas utilities providing residential heat-related utility service to submit reports regarding services provided during the commission's designated cold weather period.

(1) Each utility providing heat-related utility service shall submit a report to the consumer services department of the commission for each calendar month no later than the twentieth day of the following month. The utility shall provide a copy of each report to the Office of the Public Counsel. The utility shall report for each operational district into which the utility has divided its Missouri service territory the number of days it was permitted to discontinue service under 4 CSR 240-13.055, and the utility shall separately report on the information listed below for customers receiving energy assistance and customers who are affected by 4 CSR 240-13.055 and not known to be receiving energy assistance. All information submitted shall be considered public information; however, no customer-specific information shall be re-reported or made public. Utilities providing both electric and gas service shall report the information separately for their gas-only territory:

(A) How many customers were:

1. Disconnected, at the end of the period;

2. Of those disconnected, how many customers had service discontinued for non-payment during the period.

3. Of those discontinued during the period, how many customers were restored to service during the period.

(B) Of customers reported as disconnected at the end of the period:

1. How many had broken a cold weather rule pay agreement;

2. How many had broken a non-cold weather rule pay agreement;

3. How many had not been on a pay agreement.

(C) Of those customers reconnected during the period:

1. How many customers received energy assistance (pledged or paid) from:

- A. Low Income Home Energy Assistance Program (LIHEAP);

- B. Energy Crisis Intervention Program (ECIP);

- C. Other serves known to the utilities.

2. How much energy assistance was provided by:

- A. LIHEAP;

- B. ECIP;

- C. Other sources known to the utility;

- D. Customer.

(D) Of customers restored to service during the period:

1. How many were put on a cold weather rule pay agreement;

2. How many were put on a non-cold weather rule pay agreement.

(E) How much was owed by those disconnected at the end of the period:

1. How much was owed by those disconnected during the period;

2. How much was owed by those reconnected during the period.

(F) How many customers were registered under 4 CSR 240-13.055(1)(D) at the end of the period:

1. How many customers registered during the period;

2. How many of such registered customers had service discontinued during the period.

(G) For how many customers during the period did the utility receive:

1. LIHEAP;

2. ECIP;

3. Other assistance known to the utility.

(H) How much cash did the utility receive on behalf of customers during the period from:

1. LIHEAP;

2. ECIP;

3. Others known to the utility.

(I) How many customers who requested reconnection under terms of this rule were refused service pursuant to section 4 CSR 240-13.055(9).

(J) How many customers received energy assistance insufficient in amount to retain or restore service.



(K) The number of customers who agreed to pay for their heat-related utility service under a payment agreement in accordance with 4 CSR 240-13.055.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed April 24, 2003, effective Dec. 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.255 Filing Requirements for Gas Utility Promotional Practices

PURPOSE: This rule prescribes the filing requirement for present, proposed or revised promotional practices.

(1) Any promotional practices offered by a gas utility must meet the requirements set out in the commission's rules regarding utility promotional practices (4 CSR 240-14).

(2) No gas utility or its affiliate shall offer or grant any additional promotional practice or vary or terminate any existing promotional practice, directly or indirectly, or in concert with others, or by any means whatsoever, until a tariff filing showing the addition or variation or termination in the form prescribed by this rule has been made with the commission and a copy furnished to each other gas utility providing the same or competing utility service in any portion of the service area of the filing utility.

(A) The utility shall provide the following information on the tariff sheets:

1. The name, number or letter designation of the promotional practice;
2. The class of persons to which the promotional practice is being offered or granted;
3. Whether the promotional practice is being uniformly offered to all persons within that class;
4. A description of the promotional practice and a statement of its purpose or objective;
5. A statement of the terms and conditions governing the promotional practice;
6. If the promotional practice is offered or granted, in whole or in part, by an affiliate or other person, the identity of the affiliate or person and the nature of their participation; and
7. Other information relevant to a complete understanding of the promotional practice.

(B) The utility shall provide the following supporting information for each promotional practice:

1. A description of the advertising or publicity to be employed with respect to the promotional practice;
2. For promotional practices that are designed to evaluate the cost-effectiveness of potential demand-side resources, a description of the evaluation criteria, the evaluation plan and the schedule for completing the evaluation; and
3. For promotional practices that are designed to acquire demand-side resources, documentation of the criteria used and the analysis performed to determine that the demand-side resources are cost-effective.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.260 Filing Requirements for Gas Utility Rate Schedules

PURPOSE: This rule prescribes the forms and procedures for filing and publishing schedules of rates of all gas utilities under the jurisdiction of the Public Service Commission.

(1) Every gas corporation engaged in the manufacture, furnishing or distribution of gas of any nature whatsoever for light, heat or power, within the state of Missouri, is directed not later than October 15, 1913, to have on file with this commission and keep open for public inspection, schedules showing all rates and charges in connection with such service of whatever nature made by the gas corporations for each and every kind of service which it renders as were in force on April 15, 1913, together with proper supplements covering all changes in the rate schedules authorized by this commission, if any, since April 15, 1913.

(2) All such rate schedules now on file with the commission not in accordance with this rule shall be issued in the form and manner prescribed by this rule and all rate schedules issued after April 15, 1913, must conform to this rule.

(3) Rate schedules shall be drawn up substantially in accordance with Form No. 14 and shall be plainly printed or typewritten on good quality of paper of size eight and one-half inches by eleven inches (8 1/2" × 11")

in book, sheet or pamphlet form. A loose-leaf plan may be used so changes can be made by reprinting and inserting a single leaf. When the loose-leaf plan is used, all sheets, except the title page sheet, must show in the marginal space at the top of the page the name of the gas corporation issuing, the PSC number of schedule and the number of the page. In the marginal space at the bottom of sheet should be shown—the date of issue, the effective date and the name, title and address of the officer by whom the schedule is issued. All schedules shall bear a number with the prefix PSC Mo. _____. Schedules shall be numbered in consecutive serial order beginning with number 1 for each gas corporation. If a schedule or part of a schedule is cancelled, a new schedule or part thereof (sheet(s) if loose-leaf) will refer to the schedule canceled by its PSC number; thus: PSC Mo. No. _____ canceling PSC Mo. No. _____.

(4) Each schedule shall be accompanied by a letter of transmittal, in duplicate if receipt is desired, which shall be prepared consistent with the format designated by the commission.

(5) All proposed changes in rates, charges or rentals or in rules that affect rates, charges or rentals filed with the commission shall be accompanied by a brief summary, approximately one hundred (100) words or less of the effect of the change on the company's customers. A copy of any proposed change and summary shall also be served on the public counsel and be available for public inspection and reproduction during regular office hours at the general business office of the utility.

(6) Thirty (30) days' notice to the commission is required as to every publication relating to gas rates or service except where publications are made effective on less than statutory notice by permission, rule or requirement of the commission.

(7) Except as is otherwise provided, no schedule or supplement will be accepted for filing unless it is delivered to the commission free from all charges or claims for postage, the full thirty (30) days required by law before the date upon which the schedule or supplement is stated to be effective. No consideration will be given to or for the time during which a schedule or supplement may be held by the post office authorities because of insufficient postage. When a schedule or a supplement is issued and as to which the commission is not given the statutory notice, it is as if it had not been issued and a full



statutory notice must be given of any rescission. No consideration will be given to telegraphic notices in computing the thirty (30) days' notice required. In those cases the schedule will be returned to the sender and correction of the neglect or omission cannot be made which takes into account any time elapsing between the date upon which the schedule or supplement was received and the date of the attempted correction. For rate schedules and supplements issued on short notice under special permission of the commission, literal compliance with the requirements for notice named in any order, rule or permission granted by the commission will be exacted.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

4 CSR 240-3.265 Natural Gas Utility Petitions for Infrastructure System Replacement Surcharges

PURPOSE: This rule sets forth the definitions, parameters and procedures relevant to the filing and processing of petitions pertaining to an infrastructure system replacement surcharge (ISRS), including the information that a natural gas utility must provide when it files a petition and associated rate schedules to establish, change or reconcile an ISRS.

(1) As used in this rule, the following terms mean:

(A) Appropriate pretax revenues—the revenues necessary to:

1. Produce net operating income equal to the natural gas utility's weighted cost of capital multiplied by the net original cost of eligible infrastructure system replacements, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements that are included in a currently effective infrastructure system replacement surcharge (ISRS);

2. Recover state, federal, and local income or excise taxes applicable to such income; and

3. Recover all other ISRS costs;

(B) Eligible infrastructure system replacements—natural gas utility plant projects that:

1. Replace or extend the useful life of existing infrastructure;

2. Are in service and used and useful;

3. Do not increase revenues by directly connecting the infrastructure replacement to new customers; and

4. Were not included in the natural gas utility's rate base in its most recent general rate case;

(C) Natural gas utility—a gas corporation as defined in section 386.020, RSMo;

(D) ISRS—infrastructure system replacement surcharge;

(E) ISRS costs—annual depreciation expenses, and property taxes that will be due within twelve (12) months of the ISRS filing on the total cost of eligible infrastructure system replacements less annual depreciation expenses and property taxes on any related facility retirements;

(F) ISRS revenues—revenues produced through an ISRS, exclusive of revenues from all other rates and charges;

(G) Natural gas utility plant projects—projects that consist only of the following:

1. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities that have worn out or are in deteriorated condition;

2. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects extending the useful life, or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements; and

3. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state or another entity having the power of eminent domain; provided that the costs related to such projects have not been reimbursed to the natural gas utility.

(2) Pursuant to the provisions of this rule and sections 393.1009 to 393.1015, RSMo, a natural gas utility may file a petition and proposed rate schedules with the commission to establish or change ISRS rate schedules that will allow for the adjustment of its rates and charges to provide for the recovery of costs for eligible infrastructure system replacements; provided that the ISRS, on an annualized basis, must produce ISRS revenues of at least the lesser of one-half of one percent (1/2%) of the natural gas utility's base revenue level approved by the commission in the natural gas utility's most recent general rate case proceeding or one (1) million dollars, but not in excess of ten percent (10%) of the subject utility's base revenue level approved

by the commission in the utility's most recent general rate proceeding.

(3) An ISRS, and any future changes thereto, shall be calculated and implemented in accordance with the provisions of this rule and sections 393.1009 to 393.1015, RSMo.

(4) ISRS revenues shall be subject to refund based upon a finding and order of the commission, to the extent provided in subsections (5) and (8) of section 393.1015, RSMo.

(5) The commission shall not approve an ISRS for a natural gas utility that has not had a general rate proceeding decided or dismissed by issuance of a commission order within the past three (3) years, unless that utility has filed for or is the subject of a new general rate proceeding.

(6) In no event shall a natural gas utility collect an ISRS for a period exceeding three (3) years unless it has filed for or is the subject of a new general rate proceeding; provided that the ISRS may be collected until the effective date of new rate schedules established as a result of the new general rate proceeding, or until the subject general rate proceeding is otherwise decided or dismissed by issuance of a commission order without new rates being established.

(7) Upon the filing of a petition seeking to establish or change an ISRS, the commission will provide notice of the filing.

(8) The natural gas utility shall provide the following notices to its customers, with such notices to be approved by the commission in accordance with section (9) of this rule before they are sent to the customers:

(A) An initial, one (1)-time notice to all potentially affected customers, such notice being sent to customers no later than when customers will receive their first bill that includes an ISRS, explaining the subject utility's infrastructure system replacement program, explaining how its ISRS will be applied to its various customer classes and identifying the statutory authority under which it is implementing its ISRS;

(B) An annual notice to affected customers each year that an ISRS is in effect explaining the continuation of its infrastructure system replacement program and the resulting ISRS; and

(C) A surcharge description on all affected customer bills, which informs the customers of the existence and amount of the ISRS on the bills.



(9) Within twenty (20) days of the natural gas utility's filing of a petition to establish an ISRS, the subject utility shall submit the following items to the commission for approval or rejection, and the office of the public counsel may, within ten (10) days of the gas utility's filing of this information, submit comments regarding these notices to the commission:

(A) An example of the notice required by subsection (8)(A) of this rule;

(B) An example of the notice required by subsection (8)(B) of this rule; and

(C) An example customer bill showing how the ISRS will be described on affected customers' bills in accordance with subsection (8)(C) of this rule.

(10) When a natural gas utility files a petition pursuant to the provisions of this rule and sections 393.1009 to 393.1015, RSMo, the commission shall conduct an examination of the proposed ISRS.

(11) The staff of the commission may examine the information of the natural gas utility provided pursuant to this rule and sections 393.1009 to 393.1015, RSMo, to confirm the underlying costs and proper calculation of the proposed ISRS, and may submit a report regarding its examination to the commission not later than sixty (60) days after the natural gas utility files its petition. The staff shall not examine any other revenue requirement or ratemaking issues in its consideration of the petition or associated proposed rate schedules.

(12) The commission may hold a hearing on the petition and the associated proposed rate schedules and shall issue an order to become effective not later than one hundred twenty (120) days after the natural gas utility files the petition.

(13) If the commission finds that a petition complies with the requirements of sections 393.1009 to 393.1015, RSMo, the commission shall enter an order authorizing the natural gas utility to impose an ISRS that is sufficient to recover appropriate pretax revenues, as determined by the commission.

(14) The monthly ISRS shall vary according to customer class and shall be calculated based on the customer numbers reported in the most recent annual report of the natural gas utility so long as the monthly ISRS for each customer class maintains a proportional relationship equivalent to the proportional relationship of the monthly customer charge for each customer class.

(15) Commission approval of a petition, and any associated rate schedules, to establish or change an ISRS pursuant to sections 393.1009 to 393.1015, RSMo, shall in no way be binding upon the commission in determining the ratemaking treatment to be applied to eligible infrastructure system replacements during a subsequent general rate proceeding when the commission may undertake to review the prudence of such costs. In the event the commission disallows, during a subsequent general rate proceeding, recovery of costs associated with eligible infrastructure system replacements previously in an ISRS, the natural gas utility shall offset its ISRS in the future as necessary to recognize and account for any such overcollections. Nothing in this rule or section 393.1015, RSMo, shall be construed as limiting the authority of the commission to review and consider infrastructure system replacement costs along with other costs during any general rate proceeding of any natural gas utility.

(16) A natural gas utility may effectuate a change in an ISRS no more often than two (2) times during every twelve (12)-month period, with the first such period beginning on the effective date of the rate schedules that establish an initial ISRS. For the purposes of this section, an initial ISRS is the first ISRS granted to the subject utility or an ISRS established after an ISRS is reset to zero pursuant to the provisions of section (18) of this rule.

(17) At the end of each twelve (12)-month period that an ISRS is in effect, the natural gas utility shall reconcile the differences between the revenues resulting from the ISRS and the appropriate pretax revenues as found by the commission for that period and shall submit the reconciliation and proposed ISRS rate schedule revisions to the commission for approval to recover or refund the difference, as appropriate.

(18) A natural gas utility that has implemented an ISRS shall file revised ISRS rate schedules to reset the ISRS to zero when new base rates and charges become effective following a commission order establishing customer rates in a general rate proceeding that incorporates eligible costs previously reflected in an ISRS into the subject utility's base rates. If an over or under recovery of ISRS revenues, including any commission ordered refunds, exists after the ISRS has been reset to zero, that amount of over or under recovery shall be tracked in an account and considered in the next ISRS filing of the natural

gas utility. The commission shall reject an ISRS petition after a commission order in a general rate proceeding unless the ISRS revenues requested in the petition, on an annualized basis, will produce ISRS revenues of at least the lesser of one-half of one percent (1/2%) of the natural gas utility's base revenue level approved by the commission in the natural gas utility's most recent general rate case proceeding or one (1) million dollars, but not in excess of ten percent (10%) of the subject utility's base revenue level approved by the commission in the utility's most recent general rate proceeding.

(19) Upon the inclusion of eligible costs previously reflected in an ISRS into a natural gas utility's base rates, the subject utility shall immediately thereafter reconcile any previously unreconciled ISRS revenues, and track them per section (18) of this rule, as necessary to ensure that revenues resulting from the ISRS match, as closely as possible, the appropriate pretax revenues as found by the commission for that period.

(20) At the time that a natural gas utility files a petition with the commission seeking to establish, change or reconcile an ISRS, it shall submit proposed ISRS rate schedules and its supporting documentation regarding the calculation of the proposed ISRS with the petition, and shall serve the office of the public counsel with a copy of its petition, its proposed rate schedules and its supporting documentation. The subject utility's supporting documentation shall include workpapers showing the calculation of the proposed ISRS, and shall include, at a minimum, the following information:

(A) The state, federal, and local income or excise tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(B) The regulatory capital structure used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that capital structure;

(C) The cost rates for debt and preferred stock used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those cost rates;

(D) The cost of common equity used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that equity cost;

(E) The property tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(F) The depreciation rates used in calculating the proposed ISRS, and an explanation of



the source of and the basis for using those depreciation rates;

(G) The applicable customer class billing units used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those billing units;

(H) An explanation of how the proposed ISRS is being proportioned between affected customer classes, if applicable;

(I) An explanation of how the infrastructure replacement projects associated with the ISRS do not increase revenues by directly connecting the infrastructure replacement to new customers;

(J) An explanation of when the infrastructure replacement projects associated with the ISRS were completed and became used and useful;

(K) For each project for which recovery is sought, the net original cost of the infrastructure system replacements (original cost of eligible infrastructure system replacements, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements which are included in a currently effective ISRS), the amount of related ISRS costs that are eligible for recovery during the period in which the ISRS will be in effect, and a breakdown of those costs identifying which of the following project categories apply and the specific requirements being satisfied by the infrastructure replacements for each:

1. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state safety requirements;

2. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with federal safety requirements;

3. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects undertaken to comply with state safety requirements;

4. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects undertaken to comply with federal safety requirements;

5. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States;

6. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of this state;

7. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work

by or on behalf of a political subdivision of this state; and

8. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of an entity other than the United States, this state, or a political subdivision of this state, having the power of eminent domain;

(L) For each project for which recovery is sought, the statute, commission order, rule, or regulation, if any, requiring the project; a description of the project; the location of the project; what portions of the project are completed, used and useful; what portions of the project are still to be completed; and the beginning and planned end date of the project.

(21) In addition to the information required by section (20) of this rule, natural gas utilities shall, either when they file their proposed ISRS rate schedules or when they file their next general rate case after an ISRS goes into effect, submit, at a minimum, the following supporting documentation to staff and the office of the public counsel, for each ISRS filed since the utility's last general rate case:

(A) An explanation of how long any infrastructure that was replaced associated with the ISRS had been installed when it was removed or abandoned;

(B) An explanation of the efforts of the natural gas utility to quantify and to seek reimbursement of any costs associated with relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state, or another entity having the power of eminent domain, which could offset the requested ISRS revenues;

(C) If any infrastructure replacement projects associated with the ISRS were funded through financing arrangements directed toward these projects, an explanation of how the infrastructure replacement projects were funded, including the amount of any debt and the interest rate on that debt; and

(D) An explanation of the request for proposal (RFP) process, or the reasons for not using an RFP process, used to establish what entity performed the infrastructure replacement projects associated with the proposed ISRS.

(22) In addition to the information required by section (20) of this rule, the natural gas utility shall also provide the following information when it files a petition with the commission seeking to establish, change or reconcile an ISRS:

(A) A description of all information posted on the subject utility's website regarding the infrastructure system replacement surcharge and related infrastructure system replacement projects; and

(B) A description of all instructions provided to personnel at the subject utility's call center regarding how those personnel should respond to calls pertaining to the ISRS.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000, and 393.1015.11, RSMo Supp. 2003. Original rule filed Sept. 19, 2003, effective May 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 393.140, RSMo 1939, amended 1949, 1967; and 393.1015, RSMo 2003.*

4 CSR 240-3.270 Submission Requirements Regarding Plans, Procedures and Programs for the Transportation of Natural Gas by Pipeline

PURPOSE: This rule sets forth the plans, procedures and programs related to the transportation of natural gas by pipelines, which are to be submitted to designated commission personnel under various provisions of 4 CSR 240-40.

(1) General. All gas systems under the pipeline safety jurisdiction of the Missouri Public Service Commission must establish and submit welding procedures, joining procedures and construction specifications and standards to designated commission personnel before construction activities begin. All other plans, procedures and programs required by rules 4 CSR 240-40.020, 4 CSR 240-40.030, and 4 CSR 240-40.080 must be established and submitted to designated commission personnel before the system is put into operation.

(2) The plans, procedures and programs listed in subsections (A)–(H) below must be submitted to designated commission personnel in accordance with 4 CSR 240-40.030(1)(J) and maintained and modified in accordance with 4 CSR 240-40.030(1)(G).

(A) Written welding procedures in accordance with 4 CSR 240-40.030(5);

(B) Written procedures for joining pipelines other than by welding in accordance with 4 CSR 240-40.030(6)(B) and (6)(G);

(C) Written procedures for controlling corrosion in accordance with the operation and maintenance requirements contained in 4 CSR 240-40.030(9) in accordance with 4 CSR 240-40.030(9)(C);



(D) A manual of written procedures for conducting operations and maintenance activities and for emergency response in accordance with 4 CSR 240-40.030(12)(C). Transmission lines that are not exempt under 4 CSR 240-40.030(12)(C)3.E. must also submit a manual that includes procedures for handling abnormal operations in accordance with 4 CSR 240-40.030(12)(C)3.;

(E) A written operator qualification program for individuals performing covered tasks on a pipeline facility in accordance with 4 CSR 240-40.030(12)(D);

(F) A written program to prevent damage to pipelines by excavation activities in accordance with 4 CSR 240-40.030(12)(I)1.;

(G) Written procedures to minimize the hazard resulting from a gas pipeline emergency in accordance with 4 CSR 240-40.030(12)(J)1.;

(H) Written programs for the replacement of unprotected steel service lines and yard lines and cast iron mains and the cathodic protection or replacement of unprotected steel mains in accordance with 4 CSR 240-40.030(15)(B).

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.275 Submission Requirements for Gas Utility Depreciation Studies

PURPOSE: This rule sets forth the requirements regarding the submission of depreciation studies by gas utilities.

(1) Each gas utility subject to the commission's jurisdiction shall submit a depreciation study, database and property unit catalog to the manager of the commission's energy department and to the Office of the Public Counsel, as required by the terms of subsection (1)(B).

(A) The depreciation study, database and property unit catalog shall be compiled as follows:

1. The study shall reflect the average life and remaining life of each primary plant account or subaccount;

2. The database shall consist of dollar amounts, by plant account or subaccount, representing—

A. Annual dollar additions and dollar retirements by vintage year and year retired, beginning with the earliest year of available data;

B. Reserve for depreciation;

C. Surviving plant balance as of the study date; and

D. Estimated date of final retirement and surviving dollar investment for each warehouse, propane/air production facility, liquefied natural gas facility, underground natural gas storage facility, general office building or other large structure; and

3. The property unit catalog shall contain a description of each retirement unit used by the utility.

(B) A gas utility shall submit its depreciation study, database and property unit catalog on the following occasions:

1. On or before the date adjoining the first letter of the name under which the corporation does business, excluding the word the, as indicated by the tariffs on file with the commission.

A. The alphabetical categories and submission due dates are as follows:

(I) A, B, C, D: January 1, 1994;

(II) E, F, G, H: July 1, 1994;

(III) I, J, K, L: January 1, 1995;

(IV) M, N, O, P: July 1, 1995;

(V) Q, R, S, T: January 1, 1996;

and

(VI) U, V, W, X, Y, Z: July 1, 1996.

B. However—

(I) A gas utility need not submit a depreciation study, database or property unit catalog to the extent that the commission's staff received these items from the utility during the three (3) years prior to the due dates listed in subparagraph (1)(B)1.A.; and

(II) A utility with simultaneous due dates under subparagraph (1)(B)1.A. above and 4 CSR 240-3.175(1)(B)1. may postpone its due date with respect to one (1) of these rules by six (6) months. To exercise this option, the utility must give written notice of its intent to postpone compliance to the manager of the commission's energy department, and to the Office of the Public Counsel, before the utility's first due date;

2. Before five (5) years have elapsed since the last time the commission's staff received a depreciation study, database and property unit catalog from the utility.

(2) The commission may waive or grant a variance from the provisions of this rule, in whole or in part, for good cause shown, upon a utility's written application.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.280 Submission Requirements Regarding Gas Utility Written Drug and Alcohol Testing Plans

PURPOSE: This rule prescribes the requirements for submitting drug and alcohol testing plans for natural gas corporations, which are further described in 4 CSR 240-40.080.

(1) Written Drug and Alcohol Testing Plans. A written plan for drug and alcohol testing in accordance with 4 CSR 240-40.080 must be submitted to designated commission personnel.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.285 Filing Requirements Regarding Certification of Gas Sellers

PURPOSE: This rule establishes the procedure for certification of gas sellers pursuant to sections 393.297 through 393.301, RSMo.

(1) Each natural gas seller seeking certification shall submit an agreement containing only the following, pursuant to section 393.299, RSMo:

(A) Its agreement to pay all applicable business license taxes, or its proportionate share of the franchise fee or payment in lieu of taxes (PILOT) in each political subdivision in which it sells gas;

(B) A statement that it waives its right to challenge the validity of the agreement;

(C) A statement that it waives its right to the refund of any amounts paid pursuant to the agreement; and

(D) Its agreement to make its records available to the commission and the political subdivision with the right to audit the records.

(2) Each gas seller seeking certification shall also provide the following information to the commission:

(A) Its name, address, telephone number, and the name of a person(s) to contact regarding certification, location of records and business operations in Missouri; and

(B) A list of each political subdivision in which it sells gas.



(3) The application for certification shall be in the form prescribed by the commission.

AUTHORITY: sections 386.250 and 393.299, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.299, RSMo 1998.*

4 CSR 240-3.290 Submission Requirements Regarding Gas Utility Incident, Annual and Safety-Related Condition Reports

PURPOSE: This rule prescribes the requirements for submitting incident, annual, and safety-related condition reports, which are further described in 4 CSR 240-40.020.

(1) Incident Reports. Incident reports must be submitted to designated commission personnel in accordance with 4 CSR 240-40.020(4)(C), 4 CSR 240-40.020(4)(D)1., 4 CSR 240-40.020(6) and 4 CSR 240-40.020(9).

(2) Safety-Related Condition Reports. Safety-related condition reports required by 4 CSR 240-40.020(12) must be submitted to designated commission personnel in accordance with 4 CSR 240-40.020(4)(E) and 4 CSR 240-40.020(13).

(3) Annual Reports. Annual reports must be submitted to designated commission personnel in accordance with 4 CSR 240-40.020(4)(D)2., 4 CSR 240-40.020(7) and 4 CSR 240-40.020(10).

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.295 Submission Requirements Regarding Gas Utility Written Procedures for Conversion of Service and Upgrading

PURPOSE: This rule prescribes the requirements for submitting written procedures for conversion of service and upgrading of pipelines, which are further described in 4 CSR 240-40.030.

(1) Conversion to Service. Conversion of steel pipelines, previously used in service not subject to this rule, for use under this rule

must follow written procedures in accordance with 4 CSR 240-40.030(1)(H).

(2) Upgrading. Written procedures to upgrade a segment of pipeline must be established that will ensure compliance with 4 CSR 240-40.030(11) in accordance with 4 CSR 240-40.030(11)(B)3.

(3) Waivers of Compliance. Waivers of Compliance from any rules and requirements that are more stringent than the minimum federal requirements must be submitted in accordance with 4 CSR 240-40.030(16).

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.300 Definitions Pertaining Specifically to Sewer Utility Rules

PURPOSE: This rule sets forth the definitions of certain terms used in rules 4 CSR 240-3.305 through 4 CSR 240-3.340, which are in addition to the definitions set forth in rule 4 CSR 240-3.010 of this chapter.

(1) Outlet means a service sewer connection to the collecting sewer.

(2) Sewage means ground garbage, human and animal excretions and all other liquid waste normally disposed of by a residential, commercial or industrial establishment, through the sanitary sewer system.

(3) Sewer service means the removal and treatment of sewage.

(4) Sewer system includes all pipes, pumps, canals, lagoons, plants, structures and appliances and all other real estate, fixtures and personal property, owned, operated, controlled or managed in connection with or to facilitate the collection, carriage, treatment and disposal of sewage for municipal, domestic or other beneficial or necessary purpose.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.305 Filing Requirements for Sewer Utility Applications for Certificates of Convenience and Necessity

PURPOSE: Applications to the commission requesting that the commission grant a certificate of convenience and necessity must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for a certificate of convenience and necessity by a sewer company shall include the following information:

(A) If the application is for a service area—

1. A statement as to the same or similar utility service, regulated and nonregulated, available in the area requested;

2. If there are ten (10) or more residents or landowners, the name and address of no fewer than ten (10) persons residing in the proposed service area or of no fewer than ten (10) landowners in the event there are no residences in the area, or, if there are fewer than ten (10) residents or landowners, the name and address of all residents and landowners;

3. The legal description of the area to be certificated;

4. A plat drawn to a scale of one-half inch (1/2") to the mile on maps comparable to county highway maps issued by the Missouri Department of Transportation or a plat drawn to a scale of two thousand feet (2,000') to the inch; and

5. A feasibility study containing plans and specifications for the utility system and estimated cost of the construction of the utility system during the first three (3) years of construction; plans for financing; proposed rates and charges and an estimate of the number of customers, revenues and expenses during the first three (3) years of operations;

(B) When no evidence of approval of the affected governmental bodies is necessary, a statement to that effect;

(C) When approval of the affected governmental bodies is required, evidence must be provided as follows:

1. When consent or franchise by a city or county is required, approval shall be shown by a certified copy of the document granting the consent or franchise, or an affidavit of the applicant that consent has been acquired; and

2. A certified copy of the required approval of other governmental agencies; and

(D) The facts showing that the granting of the application is required by the public convenience and necessity.



(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.310 Filing Requirements for Sewer Utility Applications for Authority to Sell, Assign, Lease or Transfer Assets

PURPOSE: Applications to the commission for the authority to sell, assign, lease or transfer assets must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to sell, assign, lease or transfer assets shall include:

(A) A brief description of the property involved in the transaction, including any franchises, permits, operating rights or certificates of convenience and necessity;

(B) A copy of the contract or agreement of sale;

(C) The verification of proper authority by the person signing the application or a certified copy of resolution of the board of directors of each applicant authorizing the proposed action;

(D) The reasons the proposed sale of the assets is not detrimental to the public interest;

(E) If the purchaser is subject to the jurisdiction of the commission, a balance sheet and income statement with adjustments showing the results of the acquisitions of the property; and

(F) A statement of the impact, if any, the sale, assignment, lease or transfer of assets will have on the tax revenues of the political subdivisions in which any structures, facilities or equipment of the companies involved in that sale are located.

(2) If the purchaser is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(3) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.315 Filing Requirements for Sewer Utility Applications for Authority to Merge or Consolidate

PURPOSE: Applications to the commission for the authority to merge or consolidate must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to merge or consolidate shall include:

(A) A copy of the proposed plan and agreement of corporate merger and consolidation, including organizational charts depicting the relationship of the merging entities before and after the transaction;

(B) A certified copy of the resolution of the board of directors of each applicant authorizing the proposed merger and consolidation;

(C) The balance sheets and income statements of each applicant and a balance sheet and income statement of the surviving corporation;

(D) The reasons the proposed merger is not detrimental to the public interest;

(E) An estimate of the impact of the merger on the company's Missouri jurisdictional operations relative to the merger and acquisition in question; and

(F) A statement of the impact, if any, the merger or consolidation will have on the tax revenues of the political subdivision in which any structures, facilities or equipment of the companies involved are located.

(2) If the purchaser is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(3) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.320 Filing Requirements for Sewer Utility Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness

PURPOSE: Applications to the commission for the authority to issue stock, bonds, notes or other evidences of indebtedness must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to issue stock, bonds, notes and other evidences of indebtedness shall contain the following:

(A) A brief description of the securities which applicant desires to issue;

(B) A statement of the purpose for which the securities are to be issued and the use of the proceeds;

(C) Copies of executed instruments defining the terms of the proposed securities—

1. If these instruments have been previously filed with the commission, a reference to the case number in which the instruments were furnished;

2. If these instruments have not been executed at the time of filing, a statement of the general terms and conditions to be contained in the instruments which are proposed to be executed; and

3. If none of these instruments is either executed or to be executed, a statement of how the securities are to be sold;

(D) A certified copy of resolutions of the directors of applicant authorizing the issuance of the securities;

(E) A balance sheet and income statement with adjustments showing the effects of the issuance of the proposed securities upon—

1. Bonded and other indebtedness; and

2. Stock authorized and outstanding;

(F) A statement of what portion of the issue is subject to the fee schedule in section 386.300, RSMo; and

(G) A five (5)-year capitalization expenditure schedule as required by section 393.200, RSMo.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*



4 CSR 240-3.325 Filing Requirements for Sewer Utility Applications for Authority to Acquire the Stock of a Public Utility

PURPOSE: Applications to the commission for the authority to acquire the stock of a public utility must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to acquire the stock of a public utility shall include:

(A) A statement of the offer to purchase stock of the public utility or a copy of any agreement entered with shareholders to purchase stock;

(B) A certified copy of the resolution of the directors of applicant authorizing the acquisition of the stock; and

(C) Reasons why the proposed acquisition of the stock of the public utility is not detrimental to the public interest.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000.* Original rule filed Aug. 16, 2002, effective April 30, 2003.

*Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.

4 CSR 240-3.330 Sewer Utility Small Company Rate Increase Procedure

PURPOSE: This rule provides procedures for small sewer utilities to obtain rate increases.

(1) Notwithstanding any other rule to the contrary, small companies, as defined in this rule, may seek a general increase in revenues through a small company rate case by filing a letter requesting the change. The request shall not be accompanied by any tariff sheets. For the purpose of this rule, small companies qualifying to use the small company rate case described in this rule shall include sewer utilities having eight thousand (8,000) or fewer customers. The small company rate case shall be conducted as follows:

(A) The original letter requesting the change shall be filed with the secretary of the commission and one (1) copy shall be furnished to the public counsel. The letter shall state the amount of the additional revenue requested, the reason(s) for the proposed

change and a statement that all commission annual assessments have been paid in full or are being paid under an installment plan. The letter should also include a statement that the company's current annual report is on file with the commission. The company, in writing, shall notify customers of the request for additional revenue and the effect on the typical residential customer's bill. The notice shall indicate that customers' responses may be sent to the appropriate commission department or the public counsel within thirty (30) days of the date shown on the notice. A draft copy of the notice shall be sent to the appropriate commission department for verification of the accuracy of the notice before being sent to the company's customers. A copy of the final notice shall then be sent to the appropriate commission department and the public counsel. The commission staff and the public counsel shall exchange copies of customer responses upon their receipt. Upon receipt of the company's request, the commission staff shall schedule an investigation of the company's operations and an audit of its financial records. When the investigation and audit are complete, the commission staff shall notify the company and public counsel whether the requested additional revenue is recommended in whole or in part, of the rate design proposal for the increase, and of any recommended operational changes. If public counsel wishes to conduct an investigation and audit of the company, it must do so within the same time period as staff's investigation and audit;

(B) The commission staff, within twenty-one (21) days from the completion of its investigation, shall arrange a conference with the company and shall notify the public counsel of the conference prior to the conference, in order to provide the public counsel an opportunity to participate;

(C) If the conference between the commission staff, the company and the public counsel results in an agreement concerning additional revenue requirements and any other matters pertaining to the company's operations, including responses to customer concerns, the agreement between the commission staff, the company and the public counsel shall be reduced to writing. The company may then file tariff sheet(s) with an effective date which is not fewer than thirty (30) days after the tariff's issue date and no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. The company shall file a copy of the agreement with its tariff;

(D) If the conference results in an agreement between the commission staff and the company only, the company at this time shall

file the necessary tariff sheet(s) with the commission in accordance with the agreement. The tariff sheet(s) shall contain an effective date of not fewer than forty-five (45) days from the issue date. The company shall notify customers in writing of the proposed rates resulting from the agreement. The notice shall indicate that customers' responses may be sent to the appropriate commission department or the public counsel within twenty (20) days of the date shown on the notice. A copy of the notice shall be sent to the secretary of the commission and the public counsel. The commission staff and the public counsel shall exchange copies of the customer responses upon their receipt. The public counsel shall file a pleading indicating its agreement or disagreement with the tariff sheet(s) within twenty-five (25) days of the date the tariff sheet(s) is filed, unless a public hearing is requested;

(E) A request for a local public hearing may be filed after the tariff sheet(s) is filed by the company. The request shall be filed within twenty (20) days of the filing of the tariff sheet(s) by the company. Public counsel shall file a pleading indicating agreement or disagreement with the tariff sheet(s) within seven (7) days after the local public hearing;

(F) An agreement must be reached and tariff sheet(s) filed based upon the agreement within one hundred fifty (150) days from the date the letter initiating the case is filed. This time period may be extended with the consent of the company. Written consent for an extension shall be filed with the company's tariff; and

(G) If no agreement can be reached between the commission staff and the company, the company may initiate a standard rate case.

AUTHORITY: section 386.250, RSMo 2000.* Original rule filed Aug. 16, 2002, effective April 30, 2003.

*Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.

4 CSR 240-3.335 Annual Report Submission Requirements for Sewer Utilities

PURPOSE: Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission. This rule establishes the standards for the submission of annual reports by sewer utilities that are subject to the jurisdiction of the commission, including



the procedures for submitting nonpublic annual report information.

(1) All sewer utilities shall submit an annual report to the commission on or before April 15 of each year, except as otherwise provided for in this rule.

(2) Sewer utilities shall submit their annual reports either on a form provided by the commission or on a computer-generated replica is acceptable to the commission. Reports being submitted on paper are to be prepared in loose-leaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official commission forms with appropriate cross-references will be considered noncompliant. All requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(3) A sewer utility that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

(4) If a sewer utility subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant. In addition to the foregoing, submittals made under this section must meet the following requirements:

(A) A cover letter stating that the utility is designating some or all of the information in its annual report as confidential information, and including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

(B) The cover of each version of the report must clearly identify whether it is the public or nonpublic version;

(C) A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

(D) Each page of each version of the report that contains nonpublic information shall be clearly identified as containing such information.

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

(6) A sewer utility that is unable to meet the submission date established in section (1) of this rule may obtain an extension of up to thirty (30) days for submitting its annual report by:

(A) Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

(B) Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(7) A sewer utility that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and

(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(8) Responses to deficiency notices under the provisions of section (3) of this rule, requests for confidential treatment under the provisions of section (4) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions of section (5) of this rule, and requests for extensions of time under the provisions of sections (6) or (7) of this rule may be submitted through the commission's electronic filing and information system (EFIS).

(9) A sewer utility that does not timely file its annual report, or its response to a notice that its annual report is deficient, is subject to a penalty of one hundred dollars (\$100) and an additional penalty of one hundred dollars (\$100) for each day that it is late in filing its annual report or its response to a notice of deficiency.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003, effective April 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

4 CSR 240-3.340 Filing Requirements for Sewer Utility Tariff Schedules

PURPOSE: This rule prescribes the form, contents and procedures for filing tariff schedules by all sewer corporations under the jurisdiction of the Public Service Commission.

(1) Each sewer utility shall have on file with this commission a tariff schedule and all forms of contracts and agreements of whatever nature made by such sewer utility for each and every kind of service which it renders. For purposes of this rule the term tariff schedule shall include: schedules showing all rates and charges; all rules relating to rates, charges of service; all general privileges granted or allowed; and all maps of the area served or professed to be served and the legal description thereof.

(2) All tariff schedules now on file with the commission, not in accordance with this rule, shall be reissued in the form and manner prescribed and all tariff schedules issued after March 2, 1973 must conform to this rule.



(3) Tariff schedules shall be drawn up substantially in accordance with this commission's Form No. 13 and shall be plainly printed or typewritten on good quality paper of eight and one-half inches by eleven inches (8 1/2" × 11") in book, sheet or pamphlet form. A loose-leaf plan may be used so changes can be made by reprinting and inserting a single leaf. When the loose-leaf plan is used, all sheets, except the title page sheet, must show in the marginal space at top of page the name of the sewer utility issuing, the PSC number of schedule and the number of the page. In the marginal space at bottom of sheet shall be shown the date of issue, the effective date and the name, title and address of the officer by whom the schedule is issued. All tariff schedules shall bear a number with the prefix PSC Mo. No. _____. Tariff schedules for each sewer utility shall be numbered in consecutive serial order beginning with 1. If a tariff schedule or part thereof is canceled, a new schedule or part thereof (sheet(s) if loose-leaf) will refer to the schedule canceled, by its PSC number; thus, the PSC Mo. No. _____ canceling PSC Mo. No. _____.

(4) Each schedule shall be accompanied by a letter of transmittal, in duplicate if receipt is desired, which shall be prepared consistent with the format designated by the commission.

(5) Each sewer utility shall keep a copy of its tariff schedule open for public inspection and readily accessible to any member of the public upon demand during business hours at its principal operating office and in each division office which is now or may be established. Any proposed changes in the tariff schedule shall be readily accessible to any member of the public upon demand in the offices of the sewer utility for a period of thirty (30) days prior to the effective date of such change. If, for good cause shown, the commission allows a change without thirty (30) days' notice, the sewer utility shall display such proposed change at its office for the period prescribed by the commission prior to the effective date of the change.

(6) The following shall apply to all sewer utilities operating in the state of Missouri and each utility shall have on file as a part of its tariff schedule, rules which substantially conform thereto:

(A) Each sewer utility shall have on file with the commission rules relating to advance payments and deposits. If a utility requires advance payments for sewer service, it will not be permitted to require the customer to make a deposit to insure payment of bills. If

the utility does not require advance payments for sewer service, it may require from any customer at any time a cash deposit, provided that the amount of any such deposit so required shall not exceed the amount due for service for one (1) billing period plus thirty (30) days;

(B) Interest at the rate of six percent (6%) per annum covering the period of the deposit shall be paid by the utility to the customer or applied to the customer's account, upon return of any deposit to the customer or the application of such deposit to the customer's account; provided the cash deposit remains with the utility for a period of at least twelve (12) months;

(C) These provisions shall not apply to any deposits or guarantees made by the customer for the purpose of securing an extension of or additions to a utility's collecting system in accordance with the utility's rules covering the extensions as filed with this commission;

(D) Interest shall not accrue on any cash deposit after the date the utility has made a bona fide effort to return such deposit to the depositor. The utility shall keep in its records evidence of its effort to return such deposit;

(E) Each utility shall issue to every customer from whom a deposit is received, a nonassignable receipt;

(F) Each utility shall maintain accurate records of customer deposits which include the original amount, the date of the deposit and any transaction relating to the deposit or interest on the deposit; and

(G) If a customer requests discontinuance of sewer service to the premises, the utility will refund the unearned portion of any advance payment on a pro rata basis, provided the customer has given proper notice to the utility as required by its rules on file with the Public Service Commission.

(7) Each sewer utility shall file with the commission a sample of each type of customer bill form used by the utility, which shall provide for inclusion of the gross and/or net amount of the bill and the date by which the customer must pay the bill in order to benefit from any discount or to avoid any penalty. The utility shall specify its billing period, which shall in no case exceed a period of six (6) months.

(8) Each utility shall specify the conditions under which it may discontinue service to a customer, which conditions may include, but not necessarily be limited to, nonpayment for services rendered in accordance with the tariff schedule on file for the utility with this commission and noncompliance with the utility's rules filed with the commission.

(9) Each utility shall include in its rules that prior to physical discontinuance of service, the utility will mail at least thirty (30) days' written notice to the customers by certified mail return receipt requested and a copy of the written notice will be forwarded to this commission. The written notice shall state the violation and service may be discontinued at any time after the expiration of the specified period, provided satisfactory arrangements for continuance of the service have not been made. The requirement of a thirty (30)-day written notice prior to discontinuance of service may be waived where discharge of materials which might be detrimental to the public health and safety or cause damage to the sewer system of the utility are discovered. In the event of discontinuance of service for this reason, the customer and the commission shall be notified of such discontinuance immediately with a statement concerning the reasons for discontinuance.

(10) Each sewer utility shall include in its tariff schedule a statement of the practices and policies of the utility governing extension of its collecting system to provide service to prospective customers.

(11) Each utility shall specify the conditions under which it may refuse to provide service to an applicant, which conditions may include, but shall not be necessarily limited to, noncompliance with the utility's rules as filed with this commission, rules of this commission or local governmental regulations. If the utility refuses to serve an applicant under the provisions of this rule or any other rule, the utility shall inform the applicant in writing of the basis for its refusal and the applicant may appeal to the commission for a ruling.

(12) The utility shall physically inspect all service sewer connections to its system. The applicant for service shall provide adequate advance notice to the utility to facilitate the inspection.

(13) Each sewer utility shall also have on file as a part of its tariff schedule, rules applicable to, but not limited to, the following items: applications for service; availability of service; interruption of service; and right of access to customer's premises.

(14) All proposed changes in rates, charges or rentals or in rules that affect rates, charges or rentals filed with the commission shall be accompanied by a brief summary, approximately one hundred (100) words or less, of the effect of the change on the company's customers. A copy of any proposed change



and summary shall also be served on the public counsel and be available for public inspection and reproduction during regular office hours at the general business office of the utility.

(15) Thirty (30) days' notice to the commission is required as to every publication relating to sewer rates or service except where publications are made effective on less than statutory notice by permission, regulation or requirement of the commission.

(16) Except as is otherwise provided, no schedule or supplement will be accepted for filing unless it is delivered to the commission free from all charges or claims for postage, the full thirty (30) days required by law before the date upon which such schedule or supplement is stated to be effective. No consideration will be given to or for the time during which a schedule or supplement may be held by the post office authorities because of insufficient postage. When a schedule or a supplement is issued and as to which the commission is not given the statutory notice, it is as if it had not been issued and a full statutory notice must be given of any reissuance. No consideration will be given to telegraphic notices in computing the thirty (30) days' notice required. In such cases the schedule will be returned to the sender and correction of the neglect or omission cannot be made which takes into account any time elapsing between the date upon which the schedule or supplement was received and the date of the attempted correction. For rate schedules and supplements issued on short notice under special permission of the commission, literal compliance with the requirements for notice named in any order, regulation or permission granted by the commission will be exacted.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

4 CSR 240-3.400 Filing Requirements for Steam Heating Utility Applications for Certificates of Convenience and Necessity

PURPOSE: Applications to the commission requesting that the commission grant a certificate of convenience and necessity must meet the requirements of this rule. As noted in the rule, additional requirements pertaining

to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for a certificate of convenience and necessity shall include the following information:

(A) If the application is for a service area—

1. A statement as to the same or similar utility service, regulated and nonregulated, available in the area requested;

2. If there are ten (10) or more residents or landowners, the name and address of no fewer than ten (10) persons residing in the proposed service area or of no fewer than ten (10) landowners in the event there are no residences in the area, or, if there are fewer than ten (10) residents or landowners, the name and address of all residents and landowners;

3. The legal description of the area to be certificated;

4. A plat drawn to a scale of one-half inch (1/2") to the mile on maps comparable to county highway maps issued by the Missouri Department of Transportation or a plat drawn to a scale of two thousand feet (2,000') to the inch; and

5. A feasibility study containing plans and specifications for the utility system and estimated cost of the construction of the utility system during the first three (3) years of construction; plans for financing; proposed rates and charges and an estimate of the number of customers, revenues and expenses during the first three (3) years of operations;

(B) If the application is for electrical transmission lines or electrical production facilities—

1. A description of the route of construction and a list of all electric and telephone lines of regulated and nonregulated utilities, railroad tracks or any underground facility, as defined in section 319.015, RSMo, which the proposed construction will cross;

2. The plans and specifications for the complete construction project and estimated cost of the construction project or a statement of the reasons the information is currently unavailable and a date when it will be furnished; and

3. Plans for financing;

(C) When no evidence of approval of the affected governmental bodies is necessary, a statement to that effect;

(D) When approval of the affected governmental bodies is required, evidence must be provided as follows:

1. When consent or franchise by a city or county is required, approval shall be shown by a certified copy of the document

granting the consent or franchise, or an affidavit of the applicant that consent has been acquired; and

2. A certified copy of the required approval of other governmental agencies; and

(E) The facts showing that the granting of the application is required by the public convenience and necessity.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.405 Filing Requirements for Steam Heating Utility Applications for Authority to Sell, Assign, Lease or Transfer Assets

PURPOSE: Applications to the commission for the authority to sell, assign, lease or transfer assets must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to sell, assign, lease or transfer assets shall include:

(A) A brief description of the property involved in the transaction, including any franchises, permits, operating rights or certificates of convenience and necessity;

(B) A copy of the contract or agreement of sale;

(C) The verification of proper authority by the person signing the application or a certified copy of resolution of the board of directors of each applicant authorizing the proposed action;

(D) The reasons the proposed sale of the assets is not detrimental to the public interest; and

(E) If the purchaser is subject to the jurisdiction of the commission, a balance sheet and income statement with adjustments showing the results of the acquisitions of the property.

(2) If the purchaser is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.



(3) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.410 Filing Requirements for Steam Heating Utility Applications for Authority to Merge or Consolidate

PURPOSE: Applications to the commission for the authority to merge or consolidate must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to merge or consolidate shall include:

(A) A copy of the proposed plan and agreement of corporate merger and consolidation, including organizational charts depicting the relationship of the merging entities before and after the transaction;

(B) A certified copy of the resolution of the board of directors of each applicant authorizing the proposed merger and consolidation;

(C) The balance sheets and income statements of each applicant and a balance sheet and income statement of the surviving corporation;

(D) The reasons the proposed merger is not detrimental to the public interest; and

(E) An estimate of the impact of the merger on the company's Missouri jurisdictional operations relative to the merger and acquisition in question.

(2) If the purchaser is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(3) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.415 Filing Requirements for Steam Heating Utility Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness

PURPOSE: Applications to the commission for the authority to issue stock, bonds, notes or other evidences of indebtedness must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to issue stock, bonds, notes and other evidences of indebtedness shall contain the following:

(A) A brief description of the securities which applicant desires to issue;

(B) A statement of the purpose for which the securities are to be issued and the use of the proceeds;

(C) Copies of executed instruments defining the terms of the proposed securities—

1. If these instruments have been previously filed with the commission, a reference to the case number in which the instruments were furnished;

2. If these instruments have not been executed at the time of filing, a statement of the general terms and conditions to be contained in the instruments which are proposed to be executed; and

3. If none of these instruments is either executed or to be executed, a statement of how the securities are to be sold;

(D) A certified copy of resolutions of the directors of applicant authorizing the issuance of the securities;

(E) A balance sheet and income statement with adjustments showing the effects of the issuance of the proposed securities upon—

1. Bonded and other indebtedness; and

2. Stock authorized and outstanding;

(F) A statement of what portion of the issue is subject to the fee schedule in section 386.300, RSMo; and

(G) A five (5)-year capitalization expenditure schedule as required by section 393.200, RSMo.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.420 Filing Requirements for Steam Heating Utility Applications for Authority to Acquire the Stock of a Public Utility

PURPOSE: Applications to the commission for the authority to acquire the stock of a public utility must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to acquire the stock of a public utility shall include:

(A) A statement of the offer to purchase stock of the public utility or a copy of any agreement entered with shareholders to purchase stock;

(B) A certified copy of the resolution of the directors of applicant authorizing the acquisition of the stock; and

(C) Reasons why the proposed acquisition of the stock of the public utility is not detrimental to the public interest.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.425 Filing Requirements for Steam Heating Utility Rate Schedules

PURPOSE: This rule prescribes the form and governs the filing and publication of rate schedules of steam heating utilities regulated by the Public Service Commission.

(1) Every steam heating company engaged in manufacturing and distributing and selling, or distribution or distributing steam for motive power, heating, cooking or for any public use or service, is directed not later than October 15, 1913, to have on file with this commission, and keep open for public inspection, schedules showing all rates and charges in connection with such service of whatever nature made by such steam heating companies for each and every kind of service which it renders as were in force on April 15, 1913, together with proper supplements covering all changes in the rate schedules authorized by



this commission, if any, since April 15, 1913.

(2) All rate schedules on file on October 15, 1913, with the commission, not in accordance with these rules, shall be issued in the form and manner prescribed by this rule and all rate schedules issued after October 15, 1913, must conform to this rule.

(3) Rate schedules shall be drawn up substantially in accordance with PSC Form No. 16 and shall be plainly printed or typewritten on good quality of paper of size eight and one-half inches by eleven inches (8 1/2" × 11") in book, sheet or pamphlet form. A loose-leaf plan may be used so changes can be made by reprinting and inserting a single leaf. When the loose-leaf plan is used, all sheets, except the title page sheet, must show, in the marginal space at top of page, the name of the heating company, the PSC number of the schedule and the number of the page. In the marginal space at the bottom of the sheet shall be shown the date of issue, effective date and the name, title and address of the officer by whom the schedule is issued. All schedules shall bear a number with the prefix PSC Mo. _____. Schedules shall be numbered in consecutive serial order beginning with number 1 for each steam heating company. If a schedule or a part is canceled, a new schedule or part (sheet(s) if loose-leaf) will refer to the schedule canceled by its PSC number; thus, PSC Mo. No. _____ canceling PSC Mo. No. _____.

(4) Each schedule shall be accompanied by a letter of transmittal, in duplicate if receipt is desired, which shall be prepared consistent with the format designated by the commission.

(5) Thirty (30) days' notice to the commission is required as to every publication relating to steam heating rates or service except where publications are made effective on less than statutory notice by permission, regulation or requirement of the commission.

(6) Except as is otherwise provided, no schedule or supplement will be accepted for filing unless it is delivered to the commission free from all charges or claims for postage, the full thirty (30) days required by law before the date upon which such schedule or supplement is stated to be effective. No consideration will be given to or for the time during which a schedule or supplement may be held by the post office authorities because of insufficient postage. When a schedule or a supplement is issued and as to which the commission is not given the statutory notice,

it is as if it had not been issued and a full statutory notice must be given of any reissuance. No consideration will be given to telegraphic notices in computing the thirty (30) days' notice required. In such cases the schedule will be returned to the sender and correction of the neglect or omission cannot be made which takes into account any time elapsing between the date upon which such schedule or supplement was received and the date of the attempted correction. For rate schedules and supplements issued on short notice under special permission of the commission, literal compliance with the requirements for notice named in any order, regulation or permission granted by the commission will be exacted.

AUTHORITY: sections 386.250, 393.140 and 393.290, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 393.140, RSMo 1939, amended 1949, 1967; and 393.290, RSMo 1939, amended 1967.*

4 CSR 240-3.435 Annual Report Submission Requirements for Steam Heating Utilities

PURPOSE: Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission, and section 393.290 provides for the commission's jurisdiction over steam heating utilities. This rule establishes the standards for the submission of annual reports by steam heating utilities that are subject to the jurisdiction of the commission, including the procedures for submitting non-public annual report information.

(1) All steam heating utilities shall submit an annual report to the commission on or before April 15 of each year, except as is otherwise provided for in this rule.

(2) Steam heating utilities shall submit their annual reports either on a form provided by the commission or on a computer-generated replica that is acceptable to the commission. Reports being submitted on paper are to be prepared in loose-leaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official commission forms with appropriate cross-references will be considered noncompliant. All

requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(3) A steam heating utility that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

(4) If a steam heating utility subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant. In addition to the foregoing, submittals made under this section must meet the following requirements:

(A) A cover letter stating that the utility is designating some or all of the information in its annual report as confidential information, and including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

(B) The cover of each version of the report must clearly identify whether it is the public or non-public version;

(C) A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

(D) Each page of each version of the report that contains non-public information shall be clearly identified as containing such information.

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on



the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

(6) A steam heating utility that is unable to meet the submission date established in section (1) of this rule may obtain an extension of up to thirty (30) days for submitting its annual report by:

(A) Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

(B) Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(7) A steam heating utility that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and

(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(8) Responses to deficiency notices under the provisions of section (3) of this rule, requests for confidential treatment under the provisions of section (4) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions of section (5) of this rule, and requests for extensions of time under the provisions of sections (6) or (7) of this rule may be submitted through the commission's electronic filing and information system (EFIS).

(9) A steam heating utility that does not timely file its annual report, or its response to a notice that its annual report is deficient, is subject to a penalty of one hundred dollars

(\$100) and an additional penalty of one hundred dollars (\$100) for each day that it is late in filing its annual report or its response to a notice of deficiency.

AUTHORITY: sections 386.250, 393.140 and 393.290, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003, effective April 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 393.140, RSMo 1939, amended 1949, 1967; and 393.290, RSMo 1939, amended 1967.*

4 CSR 240-3.440 Small Steam Heating Utility Rate Case Procedure

PURPOSE: This rule provides procedures whereby small steam heating utilities may request increases in their annual operating revenues, without the necessity of meeting the filing requirements for a general rate increase request as set forth in 4 CSR 240-3.030.

(1) Notwithstanding any other rule to the contrary, a small steam heating utility serving one hundred (100) or fewer customers (small steam heating utility) may request an increase in its annual operating revenues through the procedures set forth in this rule by filing a letter requesting the change. The request shall not be accompanied by any tariff sheets. The small steam heating utility rate case shall be conducted as follows:

(A) The original letter requesting the change shall be filed with the secretary of the commission and one (1) copy shall be furnished to the public counsel. The letter shall state:

1. The amount of the additional revenue requested;
2. The reason(s) for the proposed change;
3. A statement that all commission annual assessments have been paid in full or are being paid under an installment plan; and
4. A statement that the small steam heating utility's current annual report is on file with the commission;

(B) The small steam heating utility, in writing, shall notify each customer and each provider of gas or electric service in the area of the request for additional revenue and the effect on the typical commercial and industrial customer's bill. The notice shall indicate that customers' responses may be sent to the Energy Department manager of the commission or the public counsel within thirty (30) days of the date shown on the notice. A draft copy of the notice shall be sent to the Energy

Department manager of the commission for verification of the accuracy of the notice before being sent to the small steam heating utility's customers. A copy of the final notice shall then be sent to the Energy Department manager of the commission and the public counsel. The commission staff and the public counsel shall exchange copies of customer responses upon their receipt;

(C) Any customer, gas or electric service provider responding within thirty (30) days of the date of the notice shall be entitled to copies of all filings, with the possible exception of any information deemed to be confidential or proprietary, subsequently made in the case and may participate in any conferences or hearings therein;

(D) Upon receipt of the steam heating utility's request, the commission staff shall schedule an investigation of the steam heating utility's operations and an audit of its financial records. The steam heating utility, in compliance with commission rule 4 CSR 240-2.090 Discovery and Prehearing, shall make available the following:

1. All financial records;
2. All billing and sales data; and
3. All customer information;

(E) When the investigation and audit are complete, the commission staff shall notify the steam heating utility and public counsel whether the requested additional revenue is recommended in whole or in part, of the rate design proposal for the increase, and of any recommended operational changes;

(F) If public counsel wishes to conduct an investigation and audit of the steam heating utility, it must do so within the same time period as staff's investigation and audit;

(G) The commission staff, within twenty-one (21) days from the completion of its investigation, shall arrange a conference with the steam heating utility and shall notify the public counsel of the conference prior to the conference, in order to provide the public counsel an opportunity to participate;

(H) If the conference between the commission staff, the steam heating utility and the public counsel results in an agreement concerning additional revenue requirements and any other matters pertaining to the steam heating utility's operations, including responses to customer concerns, the agreement among the commission staff, the steam heating utility and the public counsel shall be reduced to writing. The steam heating utility may then file tariff sheet(s) with an effective date which is not fewer than thirty (30) days after the tariff's issue date and no additional customer notice or local public hearing shall be required, unless otherwise ordered by the



commission. The steam heating utility shall file a copy of the agreement with its tariff;

(I) If the conference results in an agreement between the commission staff and the steam heating utility only, the steam heating utility at this time shall file the necessary tariff sheet(s) with the commission in accordance with the agreement. The tariff sheet(s) shall contain an effective date of not fewer than forty-five (45) days from the issue date. The steam heating utility shall notify customers in writing of the proposed rates resulting from the agreement. The notice shall indicate that customers' responses may be sent to the Energy Department manager of the commission or the public counsel within twenty (20) days of the date shown on the notice. A copy of the notice shall be sent to the secretary of the commission and the public counsel. The commission staff and the public counsel shall exchange copies of the customer responses upon their receipt. The public counsel shall file a pleading indicating its agreement or disagreement with the tariff sheet(s) within twenty-five (25) days of the date the tariff sheet(s) is filed, unless a public hearing is requested;

(J) A request for a local public hearing may be filed after the tariff sheet(s) is filed by the steam heating utility. The request shall be filed within twenty (20) days of the filing of the tariff sheet(s) by the steam heating utility. Public counsel shall file a pleading indicating agreement or disagreement with the tariff sheet(s) within seven (7) days after the local public hearing;

(K) An agreement must be reached and tariff sheet(s) filed based upon the agreement within one hundred fifty (150) days from the date the letter initiating the case is filed. This time period may be extended with the consent of the steam heating utility. Written consent for an extension shall be filed; and

(L) If no agreement can be reached between the commission staff and the steam heating utility, the steam heating utility may initiate a standard rate case.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000, and 393.291, RSMo Supp. 2003. Original rule filed Sept. 22, 2003, effective April 30, 2004.*

**Original authority: 386.250, RSMo 1934, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 393.140, RSMo 1939, amended 1949, 1967; and 393.291, RSMo 2003.*

4 CSR 240-3.500 Definitions Pertaining Specifically to Telecommunication Company Rules

PURPOSE: This rule sets forth the definitions of certain terms used in rules 4 CSR 240-3.505 through 4 CSR 240-3.555, which are in addition to the definitions set forth in rule 4 CSR 240-3.010 of this chapter.

(1) Access line means an analog line or a digital voice-grade equivalent line used to connect an end-user to a company's central office. Voice-grade equivalent should be considered as each channel available for voice traffic on a high capacity line. One (1) high capacity line equipped with twenty-four (24) voice-grade channels will be considered twenty-four (24) access lines.

(2) Base rate area means an area within an exchange as specified in the telecommunications company's tariffs and maps, within which each class of basic local telecommunications service is furnished at a uniform rate without the application of mileage or zone charges.

(3) Basic local telecommunications service means basic local telecommunications service as defined in section 386.020(4), RSMo.

(4) Call means a customer's attempted telecommunications transmission whether completed or not.

(5) Central office means the facility housing one (1) or more switching units in a telecommunications system which provides service to the general public and has the necessary equipment and operating arrangements for terminating and interconnecting customer lines and trunks or trunks only.

(6) Channel means a path for telecommunications between two (2) or more stations or central offices, furnished in any manner the carrier may elect.

(7) Class of service means the type of service being provided to the customer such as residential or business services.

(8) Customer means any individual, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, or other entity that accepts financial and other responsibilities in exchange for telecommunications service.

(9) Exchange means exchange as defined in section 386.020(16), RSMo.

(10) Held application means an application for establishment of basic local telecommunications service which a company has not satisfied within thirty (30) days after the date applicant desires that service begin. This would not include those applications held for credit reasons.

(11) Incumbent local exchange telecommunications company means incumbent local exchange telecommunications company as defined in section 386.020(22), RSMo.

(12) Line is a general term used in the telecommunications industry in several different senses, the most common of which are access line, trunk, channel and route.

(13) Long distance service means at a minimum two-way switched voice service between points in different local calling scopes as determined by the commission.

(14) Message means a completed call.

(15) New customer means any customer who has no prior service history with the telecommunications company with whom service is being requested.

(16) Pay telephone means a coin or non-coin telephone installed for use by the general public from which calls can be paid for at the time they are made by means of coins, tokens, credit cards, debit cards or a billing to an alternate number.

(17) Person means person as defined in section 386.020(30), RSMo.

(18) Public utility means public utility as defined in section 386.020(42), RSMo.

(19) Rate means rate as defined in section 386.020(45), RSMo.

(20) Service means service as defined in section 386.020(47), RSMo.

(21) Service objective means an acceptable level of service for an established category of service as identified in 4 CSR 240-32.080. Service objectives should be maintained on an exchange-specific basis or as otherwise monitored according to 4 CSR 240-32.080.

(22) Station means a point of input to or output from the network, including a telephone instrument or other terminal device.

(23) Surveillance level means a standard level of performance for an established category of service as identified in 4 CSR 240-32.080. A company whose service falls within a surveillance level shall immediately



investigate and take appropriate corrective action to achieve and maintain the commission's service objective.

(24) Switching is a generic term for machines that switch telephone calls from/to other telephones or trunks.

(25) Tandem means a central office where trunks are interconnected to transmit telecommunications traffic between other central offices.

(26) Tariff means a schedule of rates, services and rules approved by the commission.

(27) Telecommunication company means telecommunications company as defined in section 386.020(51), RSMo.

(28) Telecommunications service means telecommunications service as defined in section 386.020(53), RSMo.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Oct. 30, 2003, effective June 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.505 Filing Requirements for Telecommunications Company Applications for Certificates of Interexchange Service Authority to Provide Customer-Owned Coin Telephone Service

PURPOSE: Applications to the commission requesting that the commission grant a certificate for providing interexchange service authority for customer-owned coin telephone service must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for a certificate of interexchange service authority to provide customer-owned coin telephone (COLT) service shall be filed on the form provided by the commission.

(A) Applications for COLT service shall include a description of the general area in which service is to be offered.

(B) Providers of COLT service shall be exempt from the provisions of sections 392.390(1) and (3), RSMo, but shall remain subject to the provisions of section 386.370, RSMo.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.510 Filing Requirements for Telecommunications Company Applications for Certificates of Service Authority to Provide Telecommunications Services, Whether Interexchange, Local Exchange or Basic Local Exchange

PURPOSE: Applications to the commission requesting that the commission grant a certificate for providing telecommunications services, whether interexchange, local exchange or basic local exchange services, must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for a certificate of service authority to provide telecommunications services, whether interexchange, local exchange or basic local exchange, shall include:

(A) A request to be classified as a competitive telecommunications company, if applicable, and a description of the types of service the applicant intends to provide;

(B) If the application is for basic local exchange service authority, the applicant shall indicate the exchange(s) in which service is to be offered; and

(C) A proposed tariff with an effective date which is not fewer than forty-five (45) days after the tariff's issue date. Before service can be provided, a tariff and any applicable interconnection agreements must be filed with the commission and approved. However, filing the tariff and any applicable interconnection agreements simultaneously with the certificate application is optional.

(D) If the application is for basic local exchange service authority, the application shall also include the following:

1. A statement that the applicant possesses sufficient technical, financial and managerial resources and abilities to provide basic local telecommunications service.

A. The application shall contain supportive financial information that includes

twelve (12) months of historical financial statements comprised of a balance sheet and an income statement for any applicant that has been engaged in previous business operations and any company that will be providing financial support to the applicant. Entities with no prior business operations or any relationship with a company that will be providing financial support to the applicant will not be expected to provide any historical financial information.

B. Applicant shall submit on a pro forma basis, at least twelve (12) months of financial statements comprised of a balance sheet and an income statement.

C. Financial data shall reflect Missouri specific information to the extent such information is available. Company-wide financial information may be substituted in the event that Missouri specific information is not available.

D. Pro forma financial information must demonstrate the following:

(I) The applicant has a debt to total capital ratio no greater than sixty-two percent (62%) and a pretax interest coverage of at least 2.3x; and/or

(II) The applicant has a cash or cash equivalent balance of at least four (4) months operating expenses inclusive of interest expense and taxes.

(a) If the pro forma for the applicant demonstrates the requirement set forth in subparagraph D. above, only the pro forma for the applicant need be submitted. If the pro forma for the applicant does not demonstrate the requirement in subparagraph D., the applicant must submit a combined pro forma for the applicant and the company that will be providing support for the applicant, that meets the requirement in subparagraph D.

(b) If any of the items required under this rule have been submitted by applicant in a previous application within a year of this application, the same may be incorporated by reference to the case number in which the information was furnished, so long as such applicable information is current and correct;

2. A statement that the applicant will satisfy the minimum standards established by the commission;

3. A statement that sets forth the geographic area in which the applicant proposes to offer service and demonstrates that such area follows exchange boundaries of the incumbent local exchange telecommunications company and is no smaller than an exchange;

4. A statement that the applicant will offer basic local telecommunications service as a separate and distinct service; and



5. A statement that the applicant will give equitable access to all Missourians, regardless of where they live or their income, to affordable telecommunications services.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: sections 386.250, 392.450, 392.451 and 392.455, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed March 19, 2004, effective Nov. 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 392.450, RSMo 1987, amended 1996; 392.451, RSMo 1996; and 392.455, RSMo 1996.*

4 CSR 240-3.515 Filing Requirements for Telecommunications Company Applications for Certificates of Service Authority to Provide Shared Tenant Services

PURPOSE: Applications to the commission requesting that the commission grant a certificate of service authority to provide shared tenant services must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for a certificate of service authority to provide shared tenant services (STS) shall be filed on the form provided by the commission.

(A) STS applications shall include:

1. A description of all telecommunications services to be offered at the certificated location;

2. A description of any non-telecommunications services to be offered at the certificated location;

3. A copy of the contract or contracts to be used with tenants at the certificated location;

4. A copy of the contract or contracts to be signed with the local exchange company (LEC);

5. A description of the type of STS technology to be used at the certificated location;

6. A description of the form of interconnection to be used to provide toll services to tenants at the certificated location;

7. A copy of the notice used to inform tenants that local exchange access line service may not be immediately available if STS is terminated at the certificated location;

8. A statement of the rates to be charged tenants at the certificated location; and

9. A statement of the total number of tenants and corresponding stations to be served at the certificated location.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.520 Filing Requirements for Telecommunications Company Applications for Authority to Sell, Assign, Lease or Transfer Assets

PURPOSE: Applications to the commission for the authority to sell, assign, lease or transfer assets must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) Competitive telecommunications companies are exempt from subsections (2)(C) and (E) of this rule.

(2) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to sell, assign, lease or transfer assets shall include:

(A) A brief description of the property involved in the transaction, including any franchises, permits, operating rights or certificates of convenience and necessity;

(B) A copy of the contract or agreement of sale;

(C) The verification of proper authority by the person signing the application or a certified copy of the resolution of the board of directors of each applicant authorizing the proposed action;

(D) The reasons the proposed sale of the assets is not detrimental to the public interest;

(E) If the purchaser is subject to the jurisdiction of the commission, a balance sheet and income statement with adjustments showing the results of the acquisitions of the property;

(F) A statement of the impact, if any, the sale, assignment, lease or transfer of assets will have on the tax revenues of the political subdivisions in which any structures, facilities or equipment of the companies involved in that sale are located; and

(G) A copy of the customer notification to be provided to any customers who will receive service from a different telecommunications company, informing them of the transaction. Such notice shall inform customers of:

1. The name of the company that will be providing service after the sale, assignment, lease or transfer of assets is complete;

2. The name, address and contact information for the new telecommunications company;

3. The right to transfer their service to another provider as a result of the sale, assignment, lease or transfer of assets; and

4. Where to go to locate other carriers providing service in the area.

(3) If the purchaser is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(4) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed March 19, 2004, effective Nov. 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.525 Filing Requirements for Telecommunications Company Applications for Authority to Merge or Consolidate

PURPOSE: Applications to the commission for the authority to merge or consolidate must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) Competitive telecommunications companies are exempt from subsections (2)(B) and (C) of this rule.

(2) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to merge or consolidate shall include:

(A) A copy of the proposed plan and agreement of corporate merger and consolidation, including organizational charts depicting the relationship of the merging entities before and after the transaction;



(B) A certified copy of the resolution of the board of directors of each applicant authorizing the proposed merger and consolidation;

(C) The balance sheets and income statements of each applicant and a balance sheet and income statement of the surviving corporation;

(D) The reasons the proposed merger is not detrimental to the public interest;

(E) An estimate of the impact of the merger on the company's Missouri jurisdictional operations relative to the merger and acquisition in question;

(F) A statement of the impact, if any, the merger or consolidation will have on the tax revenues of the political subdivision in which any structures, facilities or equipment of the companies involved are located; and

(G) A copy of the customer notification to be provided to any customers who will receive service from a different telecommunications company, informing them of the transaction. Such notice shall inform customers of:

1. The name of the company that will be providing service after the merger or consolidation is complete;

2. The name, address and contact information for the new telecommunications company;

3. The right to transfer their service to another provider as a result of the merger or consolidation; and

4. Where to go to locate other carriers providing service in the area.

(3) If the purchaser is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(4) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed March 19, 2004, effective Nov. 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.530 Filing Requirements for Telecommunications Company Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness

PURPOSE: Applications to the commission for the authority to issue stock, bonds, notes or other evidences of indebtedness must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) Competitive telecommunications companies are exempt from subsections (2)(D) through (G) of this rule.

(2) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to issue stock, bonds, notes and other evidences of indebtedness shall contain the following:

(A) A brief description of the securities which applicant desires to issue;

(B) A statement of the purpose for which the securities are to be issued and the use of the proceeds;

(C) Copies of executed instruments defining the terms of the proposed securities—

1. If these instruments have been previously filed with the commission, a reference to the case number in which the instruments were furnished;

2. If these instruments have not been executed at the time of filing, a statement of the general terms and conditions to be contained in the instruments which are proposed to be executed; and

3. If none of these instruments is either executed or to be executed, a statement of how the securities are to be sold;

(D) A certified copy of resolutions of the directors of applicant authorizing the issuance of the securities;

(E) A balance sheet and income statement with adjustments showing the effects of the issuance of the proposed securities upon—

1. Bonded and other indebtedness; and

2. Stock authorized and outstanding;

(F) A statement of what portion of the issue is subject to the fee schedule in section 386.300, RSMo; and

(G) A five (5)-year capitalization expenditure schedule as required by section 392.310 or 393.200, RSMo.

(3) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed March 19, 2004, effective Nov. 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.535 Filing Requirements for Telecommunications Company Applications for Authority to Acquire the Stock of a Public Utility

PURPOSE: Applications to the commission for the authority to acquire the stock of a public utility must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to acquire the stock of a public utility shall include:

(A) A statement of the offer to purchase stock of the public utility or a copy of any agreement entered with shareholders to purchase stock;

(B) A certified copy of the resolution of the directors of applicant authorizing the acquisition of the stock; and

(C) Reasons why the proposed acquisition of the stock of the public utility is not detrimental to the public interest.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.540 Annual Report Submission Requirements for Telecommunications Companies

PURPOSE: Section 392.210.1, RSMo includes a requirement that telecommunications companies subject to the commission's jurisdiction must submit an annual report to the commission. This rule establishes the standards for the submission of annual reports by such telecommunications companies, including the procedures for submitting nonpublic annual report information.

(1) Except for private pay telephone providers, which are exempted under the provisions of 4 CSR 240-3.505(1)(B), all telecommunications companies shall submit an annual report to the commission on or before April 15 of each year, except as otherwise provided for in this rule.



(2) Telecommunications companies shall submit their annual reports either on a form provided by the commission or on a computer-generated replica that is acceptable to the commission. Reports being submitted on paper are to be prepared in loose-leaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official commission forms with appropriate cross-references will be considered noncompliant. All requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(A) Annual reports submitted by providers of shared tenant services (STS) shall include a list of all premises at which STS services are provided, and a list of all STS-related complaints received from tenants, including a summary of the nature of each such complaint, and a list of case numbers for any formal complaints filed with the commission.

(3) A telecommunications company that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

(4) If a telecommunications company subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant. In addition to the foregoing, submittals made under this section must meet the following requirements:

(A) A cover letter stating that the utility is designating some or all of the information in its annual report as confidential information, and including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

(B) The cover of each version of the report must clearly identify whether it is the public or nonpublic version;

(C) A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

(D) Each page of each version of the report that contains nonpublic information shall be clearly identified as containing such information.

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

(6) A telecommunications company that is unable to meet the submission date established in section (1) of this rule may obtain an extension of up to thirty (30) days for submitting its annual report by:

(A) Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

(B) Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(7) A telecommunications company that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of

the extension being requested, with the commission prior to April 15; and

(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(8) Responses to deficiency notices under the provisions of section (3) of this rule, requests for confidential treatment under the provisions of section (4) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions of section (5) of this rule, and requests for extensions of time under the provisions of sections (6) or (7) of this rule may be submitted through the commission's electronic filing and information system (EFIS).

(9) A telecommunications company that does not timely file its annual report, or its response to a notice that its annual report is deficient, is subject to a penalty of one hundred (\$100) dollars for each day that it is late in filing its annual report or its response to a notice of deficiency.

AUTHORITY: sections 386.250 and 392.210, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003, effective April 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 392.210, RSMo 1939, amended 1984, 1987.*

4 CSR 240-3.545 Filing Requirements for Telecommunications Company Tariffs

PURPOSE: This rule prescribes the form and procedures for filing tariffs for all telecommunications companies under the jurisdiction of the Missouri Public Service Commission.

(1) Unless otherwise allowed by statute, a telecommunications company as defined in section 386.020, RSMo, shall file with the Missouri Public Service Commission (commission), a tariff as defined in section (8) of this rule.

(2) Every telecommunications company shall maintain for public inspection, and make available at its principal operating office or on its website, a copy of all current tariffs.

(3) A tariff will be considered as continuing in force until amended in the manner provided in this rule. Unless specifically indicated in another section of this rule, tariff pages or sheets in effect as of the effective



date of this rule are considered in compliance with the rule.

(4) A tariff shall bear a number with the following prefix: PSC Mo. No. _____. Tariffs shall be numbered in consecutive order, commencing with a No. 1 and continuing in numerical order.

(5) A tariff should be electronic or printed on loose-leaf paper, which shall be white, eight and one-half inches by eleven inches (8 1/2" × 11"). The commission may accept other formats for the filing of a tariff.

(6) Each sheet of the tariff shall show in the marginal space at the top of the sheet, the name of the telecommunications company, the PSC Mo. No. ____ of the tariff and the number of the sheet. All sheets of the tariff shall have a sheet number in sequential number format. If tariffs include section numbers, each section will begin with the number one and continue sequentially throughout the section.

(7) The name, title and address of the issuing officer or company-designated representative shall appear in the marginal space at the bottom of the sheet. The marginal space at the bottom of the sheet shall also include the notation "Issued, _____ 20____; effective, _____ 20____".

(8) Tariffs for all telecommunications services shall contain the following information and shall be updated as changes occur. For new tariffs filed after the effective date of this rule, information contained in subsections (8)(A) through (F) will appear at the beginning of the company's tariff.

(A) Company name as registered with the Missouri Secretary of State and as certificated by the commission;

(B) If applicable, certification authority granted by the commission, including case number(s);

(C) Waivers of Missouri Statutes and commission rules as granted by the commission in connection with certification to provide service. Include case number(s) if other than case number(s) listed in subsection (8)(B);

(D) The address, telephone number and website or e-mail address, along with any other suitable means of communications, to which the general public can make requests for information on rates and services;

(E) Table of Contents—Listing of general headings specifying sheet numbers and section numbers, if applicable;

(F) An explanation of reference marks, technical abbreviations and definitions of terms commonly used in the tariff;

(G) For each service, tariffs shall provide the following:

1. The name of the service, which clearly identifies the regulated intrastate offering, as it will be advertised and offered to the customer. Any service name that references a rate will accurately reflect the applicable intrastate rate(s) for the service;

2. A detailed description of the service offered;

3. The specific rates and charges in U.S. dollars and the period of time covered by the rate or charge; and

4. Any terms and customer requirements that affect the rates or charges for the service.

(H) For competitive and incumbent local exchange telecommunications carriers, a tariff shall contain an alphabetical list of the exchange area service by rate group if applicable, including state name if other than Missouri. Competitive local exchange carrier shall be permitted to provide an alphabetical list of the exchange area by incumbent local exchange carrier. Areas served with basic local exchange service must follow exchange boundaries of the incumbent local exchange telecommunications company and also must be no smaller than an exchange absent a ruling by the commission under 392.200.2(b) RSMo, 2000.

(9) All new tariffs or all new pages added to tariffs shall be designated as an original sheet (page). All changes to tariffs must be designated substantially as follows: "First revised sheet (page) canceling (cancels, replaces) original sheet," "Second revised sheet (page) canceling (cancels, replaces) first revised sheet (page)," etc. and must contain reference marks denoting changes.

(10) A tariff shall be filed with the commission by a duly-designated official or an authorized agent of the telecommunications company.

(11) Subject to commission approval, a telecommunications company may concur in the tariff filed by another telecommunications company. The sheet indicating concurrence shall contain language substantially as follows: "The company concurs in the (rules, rates, etc.) governing (name of service) as set forth in (name of company)'s tariff as filed with the Missouri Public Service Commission, including any subsequent changes to (name of company)'s tariff."

(12) Subject to *Missouri Revised Statutes* and commission rules, all telecommunications companies shall file with the commission any changes in rates, charges or rules that affect

rates or charges. A proposed change shall be submitted in the form of a revised tariff accompanied by a cover letter and a copy of any customer notice sent or required to be sent as a result of the proposed change. The cover letter should be limited to approximately one hundred (100) words or less. A copy of the cover letter and any proposed change shall be filed with the commission or submitted electronically through the commission's electronic filing and information system (EFIS), shall be served on the Office of the Public Counsel. A copy of the proposed change(s) shall be made available for public inspection and reproduction at the company's principal operating office or on its website. The cover letter shall identify each proposed change, provide a brief summary of each proposed change, and provide the requested effective date of the revised tariff. The summary shall identify each product, service, or category of services that will be affected by the proposed change and shall identify the change in the terms and conditions that the company proposes for that product, service, or category of services including any change or adjustment in the price or fee for that product or service. Upon request by commission staff or the Office of the Public Counsel, a telecommunications company shall provide supporting documentation for each change or adjustment in prices or fees. A request for supporting documentation shall be made within five (5) business days of the filing and responses shall be provided within five (5) business days of receipt of the request for supporting documentation. The documentation shall identify:

(A) The current price or fee;

(B) The proposed price or fee;

(C) Whether the change or adjustment results in an increase or decrease in price; and

(D) The percentage change in price.

(13) All telecommunications companies are required to provide a clear and concise statement as to the purpose of the filing when submitting any tariff filing electronically through EFIS. This statement may be in lieu of the cover letter required in 4 CSR 240-3.545(12) providing it contains all the information required of cover letters as outlined in 4 CSR 240-3.545(12). This statement shall be entered on the appropriate EFIS tariff submission screen.

(14) All telecommunications companies are required to submit revisions to each PSC Mo. No. as a separate filing to be assigned a separate tracking number in EFIS. Related tariff filings impacting multiple PSC Mo. No.



tariffs shall be linked together, when technically feasible.

(15) All telecommunications companies are required to submit to the commission with the tariff filing, a copy of the notification of rate increases that was sent or will be sent to customers pursuant to 4 CSR 240-33.040(4) and a positive affirmation in writing that the notice was sent or will be sent to customers at least ten (10) days in advance of the rate's effective date.

(16) Missouri statute 392.500 provides that the commission shall be notified at least ten (10) days in advance of proposed rate increases to competitive telecommunications services and that the commission shall be notified at least seven (7) days in advance of proposed decreases to competitive telecommunications services. The seven (7) or ten (10)-day tariff filings for rate decreases and increases are for changes to existing rates only. No other additional tariff changes, except as directed by commission order or as allowed under section (19) below, are permitted on seven (7) or ten (10) days notice. For example, changes to the terms and conditions of existing services, the introduction of new services, or the elimination of existing services still require a thirty (30)-day tariff filing.

(17) When a telecommunications company files a revised tariff or sheet(s) pursuant to a commission order the cover letter shall state that the filing is in compliance with the commission's order in Case No. ___ and shall indicate the location of the changes in the PSC Mo. No. ___.

(18) Except as otherwise provided in this rule, no tariff will be accepted for filing unless it is delivered to the commission free from all charges or claims for postage and allows the full thirty (30) days required by law from date of receipt until effective date requested in the cover letter.

(19) Promotions are those service offerings that provide a reduction or waiver of a tariffed rate for a limited period of time. Promotions are allowed to go into effect after seven (7) days prior notice to the commission for competitive services and after ten (10) days prior notice to the commission for non-competitive services. Promotions must be offered under tariff, and prior notification to the commission via a tariff filing is required. Promotions must have established start and end dates and must be offered in a nondiscriminatory manner.

(20) In the case of a change of name, the telecommunications company shall issue immediately and file with the commission an adoption notice substantially as follows: "The (name of telecommunications company) hereby adopts, ratifies and makes its own, in every respect as if the same had been originally filed by it, all tariffs filed with the Public Service Commission, State of Missouri, by the (name of telecommunications company) prior to (date) or the telecommunications company shall file a new tariff under the new name." Specific requirements for filings regarding company name changes are contained in Chapter 2 of the commission's rules in rule 4 CSR 240-2.060. In addition to filing the items in 4 CSR 240-2.060, applicant must notify its customers at or before the next billing cycle of any name change affecting customer recognition of the company and file a copy of that notice with the adoption notice.

(21) Tariffs sent for filing should be addressed to Secretary, Public Service Commission, 200 Madison Street, PO Box 360, Jefferson City, MO 65102.

(22) Within six (6) months of the effective date of the rule, all telecommunications companies shall update the commission's electronic filing system with the current name, address, telephone number and e-mail address for the regulatory contact person within the telecommunications company. This information shall be updated in the electronic filing system within ten (10) business days of when changes occur.

(23) Waivers regarding compliance with the requirements of this rule granted under previously used rule numbers such as 4 CSR 240-30.010(2)(C) will continue in effect unless otherwise ordered by the commission.

*AUTHORITY: section 386.250, RSMo 2000. * Original rule filed Aug. 16, 2002, effective April 30, 2003. Rescinded and readopted: Filed Jan. 28, 2004, effective Sept. 30, 2004.*

**Original authority: 386.260, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.550 Telecommunications Company Records and Reports

PURPOSE: This rule prescribes the type, location and retention of records, and reports on telecommunications service.

(1) This rule does not apply to private shared tenant service providers or private pay telephone service providers.

(2) Each telecommunications company shall make and maintain records of its operations in sufficient detail to permit review of those operations. These records shall be retained in an easily accessible place for a period of at least three (3) years. These records shall be made available upon request to the commission or its authorized representatives. These records shall include all reports filed with the commission, together with the information necessary to verify each report.

(3) All records required by this rule shall be made available for review within the state at any time upon request. Reasonable time, not to exceed thirty (30) days, will be permitted to assemble and deliver records to the location where they are to be reviewed.

(4) For companies providing basic local telecommunications service, the records specified in section (2) above shall include the following:

(A) Each company shall record each application for basic local telecommunications service; and

(B) Each company shall keep a record, by exchange, of each held application for basic local telecommunications service that is not satisfied within thirty (30) days. The record will list the name and address of each applicant for service, whether the applicant's location is inside or outside the base rate area, the date of application, the date service is requested to begin, the date service was promised to begin, the class of service applied for and the reason for the delay in providing the requested service.

(5) Companies shall file the following information with the commission:

(A) Each company providing basic local telecommunications service shall file with the commission no later than forty-five (45) days following the end of each quarter a report, referred to as the quarterly report, of the quality of the telephone service provided to its customers. The quarterly report shall include:

1. The aggregated service level for each aspect of service quality for which there has been established a service objective in 4 CSR 240-32.080, together with such other information concerning service quality that the company deems applicable or the commission specifically requests. If the reported service level falls within the commission's identified surveillance level on an exchange-specific basis or as otherwise monitored according to 4 CSR 240-32.080, then the



company shall list the service level and provide an explanation of what corrective action will be taken to achieve and maintain the commission's service objective;

2. The number of applications held for both basic local telecommunications service. Those numbers will be kept distinct from one another. The listing shall categorize the number held for thirty (30), sixty (60), ninety (90) and one hundred twenty (120) days; and

3. The number of applications listed pursuant to subsection (4)(B) above, by exchange, and the number of such applications that were satisfied during that quarter;

(B) Each company shall have its tariff on file with the commission in accordance with 4 CSR 240-3.545;

(C) Each company providing basic local telecommunications service shall have on file with the commission an exchange boundary map for each of its exchanges within the state. Each map shall clearly show the boundary lines of the area in which the company accepts responsibility for providing such service. Exchange boundary lines shall be located by appropriate measurement to an identifiable location where that portion of the boundary line is not otherwise located on section lines, waterways, railroads, roads, etc. Maps shall contain both detail and reasonable and readable scale. Competitive local exchange companies may submit a tariff sheet adopting the tariff map on file with the commission for a specific exchange served by the incumbent local exchange provider. The exchange maps shall be available for public inspection at each public business office for the area served by the office. Each company filing an original or revised map shall submit proof of notice of the proposed boundary to any other company adjoining the area in which a boundary line is to be established or changed;

(D) Each company shall advise the commission's customer services department of abnormal service conditions by submitting electronically via the commission's electronic filing and information system (EFIS), or telephone or facsimile. Abnormal conditions include any tandem outage, central office or exchange isolation, cable cut, or central office problem that involves three hundred (300) or more customers and lasts thirty (30) minutes or more or any other service condition the company wishes to bring to the attention of the customer services department; and

(E) Each company shall make and file with the commission a disaster recovery plan, which shall be reviewed by the company at least annually and modified as necessary. Any modifications shall be submitted as amendments.

(6) Waivers regarding compliance with the requirements of this rule granted under previously used rule numbers such as 4 CSR 240-32.030(4)(C) will continue in effect unless otherwise ordered by the commission.

*AUTHORITY: section 386.250, RSMo 2000. * Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Oct. 30, 2003, effective June 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.555 Telecommunications Company Residential Customer Inquiries

PURPOSE: This rule establishes procedures to be followed when residential customers make inquiries of telecommunications companies so that such inquiries are handled in a reasonable manner.

(1) A telecommunications company shall adopt procedures which will ensure the prompt and thorough receipt, investigation and, where possible, resolution of inquiries. The telecommunications company, upon request, shall submit the procedures to the commission and the telecommunications company shall notify the commission of any substantive changes in these procedures prior to their implementation.

(2) A telecommunications company shall prepare a statement which in layman's terms describes the rights and responsibilities of both the telecommunications company and its customers under this chapter. This statement shall appear in the front part of the telephone directory or the telecommunications company will mail or otherwise deliver such statement to its existing and new customers. If multiple telecommunications companies are represented in a directory, and each has identical statements of rights and responsibilities, the information need only appear once. Upon request the statement shall be submitted to the commission, its staff, or Office of the Public Counsel. The statement shall include descriptions of:

- (A) Billing procedures;
- (B) Customer payment requirements and procedures;
- (C) Deposit and guarantee requirements;
- (D) Conditions of termination, discontinuance and reconnection of service;
- (E) Procedures for handling inquiries;
- (F) A procedure whereby a customer may avoid discontinuance of service during a period of absence;

(G) Complaint procedures under 4 CSR 240-2.070;

(H) The telephone number and address of all offices of the Missouri Public Service Commission and the statement that this company is regulated by the Missouri Public Service Commission;

(I) The address and telephone number of the Office of the Public Counsel and a statement of the function of that office; and

(J) Where provided, a prominent description of Lifeline and Link-up services.

*AUTHORITY: section 386.250, RSMo 2000. * Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Jan. 28, 2004, effective Sept. 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.560 Telecommunications Procedure for Ceasing Operations

PURPOSE: This rule describes the procedure for certificated telecommunications companies ceasing operations in the state of Missouri or discontinuing service to any geographic service area of the state.

(1) All telecommunications companies ceasing operation in Missouri or discontinuing basic local or interexchange telecommunications service to any geographic service area within the state shall provide to the commission at least thirty (30) days prior to cessation or discontinuance:

(A) A statement of reasons for ceasing or discontinuing service;

(B) Date of planned service cessation or discontinuance;

(C) Geographic areas affected by cessation or discontinuance of service;

(D) A brief description of the service(s) to be ceased or discontinued;

(E) A statement as to whether the company's tariff(s) and certificate shall remain in effect or be cancelled;

(F) A statement that all affected customers have been notified at least thirty (30) days prior to the cessation or discontinuance; and

(G) A statement that all affected customers have been informed as to how they can select a new service provider.

(2) If the information provided in section (1) above is submitted electronically, it will be submitted as a non-case related submission in the commission's Electronic Filing Information System (EFIS).



(3) If the information provided in section (1) above is submitted in paper format, it will be submitted to the manager of the Telecommunications Department.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed March 19, 2004, effective Nov. 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1967, 1977, 1980, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.565 Procedure for Telecommunications Companies that File Bankruptcy

PURPOSE: This rule describes the procedure for certificated telecommunications companies and their affiliates that file bankruptcy.

(1) Any telecommunications company certificated in Missouri that files bankruptcy or has an affiliate that files bankruptcy shall, within ten (10) working days of filing bankruptcy, provide to the commission:

(A) A notice that the company or an affiliate has filed bankruptcy including:

1. The bankruptcy case number;
2. The bankruptcy filing date;
3. The bankruptcy chapter number; and,
4. The bankruptcy court.

(B) If Missouri certificated telecommunications companies have certificated or non-certificated affiliates that file bankruptcy, only one (1) of the Missouri certificated telecommunications companies need provide to the commission the items in subsections (1)(A)1.-4. The responsibility of providing the information in subsections (1)(A)1.-4. will fall to the carrier first certificated in Missouri. The certificated company providing these items shall also provide the name(s) of its other Missouri certificated affiliate(s).

(2) If the bankruptcy court approves the transfer of customers to another telecommunications company, a copy of the bankruptcy order shall be provided to the commission with the application for service authority or application for approval to transfer assets. An application for service authority or application for approval to transfer assets may be filed before, but shall be filed no more than ten (10) working days after the effective date of, the bankruptcy court's order approving the transfer of the customers.

(A) The application for service authority or application for approval to transfer assets shall contain a statement as to whether the existing company's tariff and certificate shall remain in effect or be cancelled.

(3) If the telecommunications company filing bankruptcy has telecommunications facilities that are located at the premises of another telecommunications company, the company filing bankruptcy shall, within seventy-five (75) days after filing bankruptcy, provide to the commission:

(A) A statement identifying the telecommunications facilities and their locations;

(B) A statement identifying the entities with an interest in the telecommunications facilities;

(C) A statement describing the disposition of the telecommunications facilities and the entity conducting the disposition of the facilities; and

(D) A statement informing the commission of the date when the telecommunications facilities have been or will be disconnected and removed from the premises of the other telecommunications company and disposed of properly.

(4) If the information provided in sections (1)–(3) above is submitted electronically, it will be submitted as a non-case related submission in the commission's Electronic Filing Information System (EFIS).

(5) If the information provided in sections (1)–(3) above is submitted in paper format, it will be submitted to the manager of the Telecommunications Department.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed March 19, 2004, effective Nov. 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1967, 1977, 1980, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.600 Filing Requirements for Water Utility Applications for Certificates of Convenience and Necessity

PURPOSE: Applications to the commission requesting that the commission grant a certificate of convenience and necessity must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for a certificate of convenience and necessity by a water company shall include the following information:

(A) If the application is for a service area—

1. A statement as to the same or similar utility service, regulated and nonregulated, available in the area requested;

2. If there are ten (10) or more residents or landowners, the name and address of no fewer than ten (10) persons residing in the proposed service area or of no fewer than ten (10) landowners in the event there are no residences in the area, or, if there are fewer than ten (10) residents or landowners, the name and address of all residents and landowners;

3. The legal description of the area to be certificated;

4. A plat drawn to a scale of one-half inch (1/2") to the mile on maps comparable to county highway maps issued by the Missouri Department of Transportation or a plat drawn to a scale of two thousand feet (2,000') to the inch; and

5. A feasibility study containing plans and specifications for the utility system and estimated cost of the construction of the utility system during the first three (3) years of construction; plans for financing; proposed rates and charges and an estimate of the number of customers, revenues and expenses during the first three (3) years of operations;

(B) When no evidence of approval of the affected governmental bodies is necessary, a statement to that effect;

(C) When approval of the affected governmental bodies is required, evidence must be provided as follows:

1. When consent or franchise by a city or county is required, approval shall be shown by a certified copy of the document granting the consent or franchise, or an affidavit of the applicant that consent has been acquired; and

2. A certified copy of the required approval of other governmental agencies; and

(D) The facts showing that the granting of the application is required by the public convenience and necessity.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.605 Filing Requirements for Water Utility Applications for Authority to Sell, Assign, Lease or Transfer Assets

PURPOSE: Applications to the commission for the authority to sell, assign, lease or transfer assets must meet the requirements set



forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to sell, assign, lease or transfer assets shall include:

(A) A brief description of the property involved in the transaction, including any franchises, permits, operating rights or certificates of convenience and necessity;

(B) A copy of the contract or agreement of sale;

(C) The verification of proper authority by the person signing the application or a certified copy of resolution of the board of directors of each applicant authorizing the proposed action;

(D) The reasons the proposed sale of the assets is not detrimental to the public interest;

(E) If the purchaser is subject to the jurisdiction of the commission, a balance sheet and income statement with adjustments showing the results of the acquisitions of the property; and

(F) A statement of the impact, if any, the sale, assignment, lease or transfer of assets will have on the tax revenues of the political subdivisions in which any structures, facilities or equipment of the companies involved in that sale are located.

(2) If the purchaser is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(3) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.610 Filing Requirements for Water Utility Applications for Authority to Merge or Consolidate

PURPOSE: Applications to the commission for the authority to merge or consolidate must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to merge or consolidate shall include:

(A) A copy of the proposed plan and agreement of corporate merger and consolidation, including organizational charts depicting the relationship of the merging entities before and after the transaction;

(B) A certified copy of the resolution of the board of directors of each applicant authorizing the proposed merger and consolidation;

(C) The balance sheets and income statements of each applicant and a balance sheet and income statement of the surviving corporation;

(D) The reasons the proposed merger is not detrimental to the public interest;

(E) An estimate of the impact of the merger on the company's Missouri jurisdictional operations relative to the merger and acquisition in question; and

(F) A statement of the impact, if any, the merger or consolidation will have on the tax revenues of the political subdivision in which any structures, facilities or equipment of the companies involved are located.

(2) If the purchaser is not subject to the jurisdiction of the commission, but will be subject to the commission's jurisdiction after the sale, the purchaser must comply with these rules.

(3) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.615 Filing Requirements for Water Utility Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness

PURPOSE: Applications to the commission for the authority to issue stock, bonds, notes or other evidences of indebtedness must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to

issue stock, bonds, notes and other evidences of indebtedness shall contain the following:

(A) A brief description of the securities which applicant desires to issue;

(B) A statement of the purpose for which the securities are to be issued and the use of the proceeds;

(C) Copies of executed instruments defining the terms of the proposed securities—

1. If these instruments have been previously filed with the commission, a reference to the case number in which the instruments were furnished;

2. If these instruments have not been executed at the time of filing, a statement of the general terms and conditions to be contained in the instruments which are proposed to be executed; and

3. If none of these instruments is either executed or to be executed, a statement of how the securities are to be sold;

(D) A certified copy of resolutions of the directors of applicant authorizing the issuance of the securities;

(E) A balance sheet and income statement with adjustments showing the effects of the issuance of the proposed securities upon—

1. Bonded and other indebtedness; and

2. Stock authorized and outstanding;

(F) A statement of what portion of the issue is subject to the fee schedule in section 386.300, RSMo; and

(G) A five (5)-year capitalization expenditure schedule as required by section 393.200, RSMo.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.620 Filing Requirements for Water Utility Applications for Authority to Acquire the Stock of a Public Utility

PURPOSE: Applications to the commission for the authority to acquire the stock of a public utility must meet the requirements set forth in this rule. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1).

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for authority to



acquire the stock of a public utility shall include:

(A) A statement of the offer to purchase stock of the public utility or a copy of any agreement entered with shareholders to purchase stock;

(B) A certified copy of the resolution of the directors of applicant authorizing the acquisition of the stock; and

(C) Reasons why the proposed acquisition of the stock of the public utility is not detrimental to the public interest.

(2) If any of the items required under this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.625 Filing Requirements for Applications for Approval of Water Service Territorial Agreements

PURPOSE: This rule establishes requirements that applications to the commission for approval of territorial agreements between water service providers must meet. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1) and 4 CSR 240-3.630.

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for commission approval of territorial agreements between water service providers shall include:

(A) A copy of the territorial agreement and a specific designation of the boundary, including legal description;

(B) An illustrative tariff which reflects any changes in a regulated utility's operations or certification;

(C) An explanation as to why the territorial agreement is in the public interest;

(D) A list of all persons whose utility service would be changed by the agreement; and

(E) A check for the initial filing fee set forth in 4 CSR 240-3.630.

(2) If any of the items required by subsections (1)(A)–(D) of this rule are unavailable at the time the application is filed, they shall be furnished prior to the granting of the authority sought.

AUTHORITY: sections 247.172 and 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 247.172, RSMo 1939, amended 1976, 1978, 1985, 1986, 1993, 1996, 1997, 1998 and 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.630 Schedule of Fees Applicable to Applications for Approval of Water Service Territorial Agreements and Petitions for Designation of Water Service Areas

PURPOSE: This rule establishes a schedule of fees for commission review of proposed territorial agreements and petitions for commission designation of water service areas between water service providers.

(1) Commission review of an application for a proposed territorial agreement or a petition for commission designation of water service areas between water service providers shall be accompanied by an initial filing fee in the amount of five hundred dollars (\$500).

(2) In addition to the filing fee, the fee for commission review of an application for approval of a proposed territorial agreement between water service providers or a petition for commission designation of water service areas is set at six hundred eighty-five dollars (\$685) per hour of hearing time, subject to a minimum charge for hearing time of six hundred eighty-five dollars (\$685). There is an additional charge of three dollars and fifty cents (\$3.50) per page of transcript. These fees are in addition to the fees authorized by section 386.300, RSMo.

(3) The parties shall be responsible for payment of any unpaid fees on and after the effective date of the commission's report and order relating to the water service territorial agreement or designation of water service area. The executive director shall send an itemized billing statement to the applicants on or after the effective date of the commission's report and order. Responsibility for the payment of the fees shall be that of the parties to the proceeding as ordered by the commission in each case.

(4) An application for commission review of proposed amendment(s) to an existing territorial agreement between water service providers shall not be subject to the fee of five hundred dollars (\$500) specified in section (1) of this rule. However, the applicants shall be responsible for the payment of a fee which reflects necessary hearing time

(including the minimum hearing time charge) and the transcript costs as specified in section (2) of this rule.

(5) On July 1 of each year, the filing fee and the fee per hour of evidentiary hearing time will be modified to match any percentage change in the Consumer Price Index for the twelve (12)-month period ending December 31 of the preceding year.

AUTHORITY: sections 247.172 and 386.250, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 247.172, RSMo 1939, amended 1976, 1978, 1985, 1986, 1993, 1996, 1997, 1998 and 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.635 Water Utility Small Company Rate Increase Procedure

PURPOSE: This rule provides procedures for small water utilities to obtain rate increases.

(1) Notwithstanding any other rule to the contrary, small companies, as defined in this rule, may seek a general increase in revenues through a small company rate case by filing a letter requesting the change. The request shall not be accompanied by any tariff sheets. For the purpose of this rule, small companies qualifying to use the small company rate case described in this rule shall include water utilities having eight thousand (8,000) or fewer customers. The small company rate case shall be conducted as follows:

(A) The original letter requesting the change shall be filed with the secretary of the commission and one (1) copy shall be furnished to the public counsel. The letter shall state the amount of the additional revenue requested, the reason(s) for the proposed change and a statement that all commission annual assessments have been paid in full or are being paid under an installment plan. The letter should also include a statement that the company's current annual report is on file with the commission. The company, in writing, shall notify customers of the request for additional revenue and the effect on the typical residential customer's bill. The notice shall indicate that customers' responses may be sent to the appropriate commission department or the public counsel within thirty (30) days of the date shown on the notice. A draft copy of the notice shall be sent to the appropriate commission department for verification of the accuracy of the notice before being sent to the company's customers. A copy of the final notice shall then be sent to the appropriate commission department and the



public counsel. The commission staff and the public counsel shall exchange copies of customer responses upon their receipt. Upon receipt of the company's request, the commission staff shall schedule an investigation of the company's operations and an audit of its financial records. When the investigation and audit are complete, the commission staff shall notify the company and public counsel whether the requested additional revenue is recommended in whole or in part, of the rate design proposal for the increase, and of any recommended operational changes. If public counsel wishes to conduct an investigation and audit of the company, it must do so within the same time period as staff's investigation and audit;

(B) The commission staff, within twenty-one (21) days from the completion of its investigation, shall arrange a conference with the company and shall notify the public counsel of the conference prior to the conference, in order to provide the public counsel an opportunity to participate;

(C) If the conference between the commission staff, the company and the public counsel results in an agreement concerning additional revenue requirements and any other matters pertaining to the company's operations, including responses to customer concerns, the agreement between the commission staff, the company and the public counsel shall be reduced to writing. The company may then file tariff sheet(s) with an effective date which is not fewer than thirty (30) days after the tariff's issue date and no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. The company shall file a copy of the agreement with its tariff;

(D) If the conference results in an agreement between the commission staff and the company only, the company at this time shall file the necessary tariff sheet(s) with the commission in accordance with the agreement. The tariff sheet(s) shall contain an effective date of not fewer than forty-five (45) days from the issue date. The company shall notify customers in writing of the proposed rates resulting from the agreement. The notice shall indicate that customers' responses may be sent to the appropriate commission department or the public counsel within twenty (20) days of the date shown on the notice. A copy of the notice shall be sent to the secretary of the commission and the public counsel. The commission staff and the public counsel shall exchange copies of the customer responses upon their receipt. The public counsel shall file a pleading indicating its agreement or disagreement with the tariff sheet(s) within twenty-five (25) days of the date the tariff

sheet(s) is filed, unless a public hearing is requested;

(E) A request for a local public hearing may be filed after the tariff sheet(s) is filed by the company. The request shall be filed within twenty (20) days of the filing of the tariff sheet(s) by the company. Public counsel shall file a pleading indicating agreement or disagreement with the tariff sheet(s) within seven (7) days after the local public hearing;

(F) An agreement must be reached and tariff sheet(s) filed based upon the agreement within one hundred fifty (150) days from the date the letter initiating the case is filed. This time period may be extended with the consent of the company. Written consent for an extension shall be filed with the company's tariff; and

(G) If no agreement can be reached between the commission staff and the company, the company may initiate a standard rate case.

*AUTHORITY: section 386.250, RSMo 2000. * Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996.*

4 CSR 240-3.640 Annual Report Submission Requirements for Water Utilities

PURPOSE: Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission. This rule establishes the standards for the submission of annual reports by water utilities that are subject to the jurisdiction of the commission, including the procedures for submitting nonpublic annual report information.

(1) All water utilities shall submit an annual report to the commission on or before April 15 of each year, except as otherwise provided for in this rule.

(2) Water utilities shall submit their annual reports either on a form provided by the commission or on a computer-generated replica that is acceptable to the commission. Reports being submitted on paper are to be prepared in loose-leaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official com-

mission forms with appropriate cross-reference will be considered noncompliant. All requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(3) A water utility that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

(4) If a water utility subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant. In addition to the foregoing, submittals made under this section must meet the following requirements:

(A) A cover letter stating that the utility is designating some or all of the information in its annual report as confidential information, and including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

(B) The cover of each version of the report must clearly identify whether it is the public or nonpublic version;

(C) A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

(D) Each page of each version of the report that contains nonpublic information shall be clearly identified as containing such information.

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order



to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

(6) A water utility that is unable to meet the submission date established in section (1) of this rule may obtain an extension of up to thirty (30) days for submitting its annual report by:

(A) Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

(B) Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(7) A water utility that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by:

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and

(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(8) Responses to deficiency notices under the provisions of section (3) of this rule, requests for confidential treatment under the provisions of section (4) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions of section (5) of this rule, and requests for extensions of time under the provisions of sections (6) or (7) of this rule may be submitted through the commission's electronic filing and information system (EFIS).

(9) A water utility that does not timely file its annual report, or its response to a notice that

its annual report is deficient, is subject to a penalty of one hundred dollars (\$100) and an additional penalty of one hundred dollars (\$100) for each day that it is late in filing its annual report or its response to a notice of deficiency.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003, effective April 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

4 CSR 240-3.645 Filing Requirements for Water Utility Rate Schedules

PURPOSE: This rule prescribes the form and procedures for filing and publishing schedules of rates of all water utilities under the jurisdiction of the Public Service Commission.

(1) Every water corporation engaged in the furnishing or distribution of water for domestic or other beneficial use in the state of Missouri is directed not later than October 15, 1913, to have on file with this commission and keep open for public inspection, schedules showing all rates and charges in connection with the service or whatever nature made by these water corporations for each and every kind of service which it renders as were in force on April 15, 1913, together with proper supplements covering all changes in the rate schedules authorized by this commission, if any, since April 15, 1913.

(2) All the rate schedules now on file with the commission not in accordance with these rules shall be issued in the form and manner prescribed by this rule and all rate schedules issued after April 15, 1913, must conform to this rule.

(3) Rate schedules shall be drawn up substantially in accordance with Form No. 13 and shall be plainly printed or typewritten on good quality of paper of size eight and one-half inches by eleven inches (8 1/2" × 11") in book, sheet or pamphlet form. A loose-leaf plan may be used so changes can be made by reprinting and inserting a single leaf. When the loose-leaf plan is used, all sheets, except the title page sheet, must show in the marginal space at top of page the name of the water corporation issuing, the PSC number of the schedule and the number of the page. In the marginal space at bottom of the sheet, should be shown: the date of issue, the

effective date and the name, title and address of the officer by whom the schedule is issued. All schedules shall bear a number with the prefix PSC Mo. _____. Schedules shall be numbered in consecutive serial order beginning with number 1 for each water corporation. If a schedule or part thereof is canceled, a new schedule or part thereof (sheet or sheets if loose-leaf) will refer to the schedule canceled by its PSC number; thus, PSC Mo. No. _____ canceling PSC Mo. No. _____.

(4) Each schedule shall be accompanied by a letter of transmittal, in duplicate if receipt is desired, which shall be prepared consistent with the format designated by the commission.

(5) All proposed changes in rates, charges or rentals or in rules that affect rates, charges or rentals, filed with the commission shall be accompanied by a brief summary, approximately one hundred (100) words or less, of the effect of the change on the company's customers. A copy of any proposed change and summary shall also be served on the public counsel and be available for public inspection and reproduction during regular office hours at the general business office of the utility.

(6) Thirty (30) days' notice to the commission is required as to every publication relating to water rates or service except where publications are made effective on less than statutory notice by permission, regulation or requirement of the commission.

(7) Except as is otherwise provided, no schedule or supplement will be accepted for filing unless it is delivered to the commission free from all charges or claims for postage, the full thirty (30) days required by law before the date upon which such schedule or supplement is stated to be effective. No consideration will be given to or for the time during which a schedule or supplement may be held by the post office authorities because of insufficient postage. When a schedule or a supplement is issued and as to which the commission is not given the statutory notice, it is as if it had not been issued and a full statutory notice must be given of any reissuance. No consideration will be given to telegraphic notices in computing the required thirty (30) days' notice. In such cases the schedule will be returned to the sender and correction of the neglect or omission cannot be made which takes into account any time elapsing between the date upon which such schedule or supplement was received and the date of the attempted correction. For rate schedules and supplements issued on short



notice under special permission of the commission, literal compliance with the requirements or notice named in any order, regulation or permission granted by the commission will be exacted.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

4 CSR 240-3.650 Water Utility Petitions for Infrastructure System Replacement Surcharges

PURPOSE: This rule sets forth the definitions, parameters and procedures relevant to the filing and processing of petitions pertaining to an infrastructure system replacement surcharge (ISRS), including the information that an eligible water utility must provide when it files a petition and associated rate schedules to establish, change or reconcile an ISRS.

(1) As used in this rule, the following terms mean:

(A) Appropriate pretax revenues—the revenues necessary to:

1. Produce net operating income equal to the eligible water utility's weighted cost of capital multiplied by the net original cost of eligible infrastructure system replacements (original cost of eligible infrastructure system replacements, net of accumulated deferred income taxes and accumulated depreciation associated with the replacements), including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements that are included in a currently effective ISRS;

2. Recover state, federal, and local income or excise taxes applicable to such income; and

3. Recover all other ISRS costs;

(B) Eligible infrastructure system replacements—water utility plant projects that:

1. Replace or extend the useful life of existing infrastructure;

2. Are in service and used and useful;

3. Do not increase revenues by directly connecting the infrastructure replacement to new customers;

4. Were not included in the eligible water utility's rate base in its most recent general rate case; and

5. Were made in a county with a charter form of government and with more than one (1) million inhabitants;

(C) Eligible water utility—a water corporation as defined in section 386.020(58), RSMo, that provides service to more than ten thousand (10,000) customers in a county with a charter form of government and with more than one (1) million inhabitants;

(D) ISRS—infrastructure system replacement surcharge;

(E) ISRS costs—annual depreciation expenses, and property taxes that will be due within twelve (12) months of the ISRS filing, on the total cost of eligible infrastructure system replacements, reduced by annual depreciation expenses and property taxes on any related facility retirements;

(F) ISRS revenues—revenues produced through an ISRS, exclusive of revenues from all other rates and charges;

(G) Water utility plant projects—projects that consist only of the following:

1. Mains, and associated valves and hydrants, installed as replacements for existing facilities that have worn out or are in deteriorated condition;

2. Main cleaning and relining projects; and

3. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state or another entity having the power of eminent domain; provided that the costs related to such projects have not been reimbursed to the eligible water utility.

(2) Pursuant to the provisions of this rule and sections 393.1000 to 393.1006, RSMo, an eligible water utility may file a petition with the commission to establish or change ISRS rate schedules that will allow for the adjustment of its rates and charges to provide for the recovery of costs for eligible infrastructure system replacements; provided that an ISRS, on an annualized basis, must produce ISRS revenues of at least one (1) million dollars but not in excess of ten percent (10%) of the subject utility's base revenue level approved by the commission in the utility's most recent general rate proceeding.

(3) An ISRS, and any future changes thereto, shall be calculated and implemented in accordance with the provisions of this rule and sections 393.1000 to 393.1006, RSMo.

(4) ISRS revenues shall be subject to refund based upon a finding and order of the com-

mission, to the extent provided in subsections 5 and 8 of section 393.1006, RSMo.

(5) The commission shall not approve an ISRS for an eligible water utility that has not had a general rate proceeding decided or dismissed by issuance of a commission order within the past three (3) years, unless that utility has filed for or is the subject of a new general rate proceeding.

(6) In no event shall an eligible water utility collect an ISRS for a period exceeding three (3) years unless it has filed for or is the subject of a new general rate proceeding; provided that the ISRS may be collected until the effective date of new rate schedules established as a result of the new general rate proceeding, or until the subject general rate proceeding is otherwise decided or dismissed by issuance of a commission order without new rates being established.

(7) Upon the filing of a petition seeking to establish or change an ISRS, the commission will publish notice of the filing.

(8) The eligible water utility shall provide the following notices to its customers, with such notices to be approved by the commission in accordance with section (9) of this rule before they are sent to the customers:

(A) An initial, one (1)-time notice to all potentially affected customers, with such notice to be sent to customers no later than when customers will receive their first bill that includes an ISRS, explaining the subject utility's infrastructure system replacement program, explaining how its ISRS will be applied to its various customer classes and identifying the statutory authority under which it is implementing its ISRS;

(B) An annual notice to affected customers each year that an ISRS is in effect explaining the continuation of its infrastructure system replacement program and the resulting ISRS; and

(C) A surcharge description on all affected customer bills, which informs the customers of the existence and amount of the ISRS on the bills.

(9) Within twenty (20) days of the eligible water utility's filing of a petition to establish an ISRS, the subject utility shall submit the following items to the commission for approval or rejection, and the office of the public counsel may, within ten (10) days of the water utility's filing, submit comments regarding these items to the commission:

(A) An example of the notice required by subsection (8)(A) of this rule;



(B) An example of the notice required by subsection (8)(B) of this rule; and

(C) An example customer bill showing how the ISRS will be described on affected customers' bills in accordance with subsection (8)(C) of this rule.

(10) When an eligible water utility files a petition pursuant to the provisions of this rule and sections 393.1000 to 393.1006, RSMo, the commission shall conduct an examination of the proposed ISRS.

(11) The staff of the commission may examine the information the eligible water utility provides pursuant to the provisions of this rule and sections 393.1000 to 393.1006, RSMo, to confirm the underlying costs related to and the proper calculation of the proposed ISRS, and may submit a report regarding its examination to the commission not later than sixty (60) days after the eligible water utility files its petition. The staff shall not examine any other revenue requirement or ratemaking issues in its consideration of the petition or associated proposed rate schedules.

(12) The commission may hold a hearing on the petition and the associated proposed rate schedules, and shall issue an order to become effective not later than one hundred twenty (120) days after the eligible water utility files the petition.

(13) If the commission finds that a petition complies with the requirements of sections 393.1000 to 393.1006, RSMo, the commission shall enter an order authorizing the eligible water utility to impose an ISRS that is sufficient to recover appropriate pretax revenues, as determined by the commission.

(14) Commission approval of a petition, and any associated rate schedules, to establish or change an ISRS pursuant to sections 393.1000 to 393.1006, RSMo, shall in no way be binding upon the commission in determining the ratemaking treatment to be applied to eligible infrastructure system replacements during a subsequent general rate proceeding when the commission may undertake to review the prudence of such costs. In the event the commission disallows recovery of costs associated with eligible infrastructure system replacements previously collected through an ISRS, as a part of its order in a subsequent general rate proceeding, the water utility shall offset its ISRS in the future as needed to recognize and account for any such disallowances. Nothing in this rule or section 393.1006, RSMo, shall be

construed as limiting the authority of the commission to review and consider infrastructure system replacement costs along with other costs during any general rate proceeding of an eligible water utility.

(15) An eligible water utility may effectuate a change in an ISRS no more often than two (2) times during every twelve (12)-month period, with the first such period beginning on the effective date of the rate schedules that establish an initial ISRS. For the purposes of this section, an initial ISRS is the first ISRS granted to the subject utility or an ISRS established after an ISRS is reset to zero pursuant to the provisions of section (17) of this rule.

(16) At the end of each twelve (12)-month period that an ISRS is in effect, the eligible water utility shall reconcile the differences between the revenues resulting from the ISRS and the appropriate pretax revenues as found by the commission for that period, and shall submit the reconciliation and proposed ISRS rate schedule revisions to the commission for approval to recover or refund the difference, as appropriate.

(17) An eligible water utility that has implemented an ISRS shall file revised ISRS rate schedules to reset the ISRS to zero when new base rates and charges become effective following a commission order establishing customer rates in a general rate proceeding that incorporates eligible costs previously reflected in an ISRS into the subject utility's base rates. If an over or under recovery of ISRS revenues, including any commission ordered refunds, exists after the ISRS has been reset to zero, the amount of over or under recovery shall be tracked in an account and considered in the water utility's next ISRS filing that it submits pursuant to the provisions of section (2) of this rule.

(18) Upon the inclusion of eligible costs previously reflected in an ISRS in an eligible water utility's base rates, the subject utility shall immediately thereafter reconcile any previously unreconciled ISRS revenues as necessary to ensure that revenues resulting from the ISRS match, as closely as possible, the appropriate pretax revenues as found by the commission for that period, and shall track such revenues pursuant to the provisions of section (17) of this rule.

(19) At the time that an eligible water utility files a petition with the commission seeking to establish, change or reconcile an ISRS, it shall submit proposed ISRS rate schedules

and its supporting documentation regarding the calculation of the proposed ISRS with the petition, and shall serve the office of the public counsel with a copy of its petition, its proposed rate schedules and its supporting documentation. The subject utility's supporting documentation shall include workpapers showing the calculation of the proposed ISRS, and shall include, at a minimum, the following information:

(A) The state, federal, and local income or excise tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(B) The regulatory capital structure used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that capital structure;

(C) The cost rates for debt and preferred stock used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those cost rates;

(D) The cost of common equity used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that equity cost;

(E) The property tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;

(F) The depreciation rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those depreciation rates;

(G) The costs that are eligible for recovery during the period in which the ISRS will be in effect, including the net original cost of the infrastructure system replacements and the amount of ISRS costs related to the eligible replacements; and a breakdown of the eligible replacements identified by work order or cost center for each of the following project categories:

1. Mains, and associated valves and hydrants, installed as replacements for existing facilities that have worn out or are in deteriorated condition;

2. Main cleaning and relining projects;

3. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States;

4. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of this state;

5. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of a political subdivision of this state; and



6. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of an entity other than the United States, this state or a political subdivision of this state, having the power of eminent domain;

(H) The applicable customer class billing determinants used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those billing determinants;

(I) An explanation of how the customers to whom the proposed ISRS will apply are benefiting from the water utility plant projects that will be recovered through the ISRS;

(J) An explanation of how the proposed ISRS is being prorated between affected customer classes, if applicable;

(K) An explanation of how the proposed ISRS is being applied in a manner consistent with the customer class cost-of-service study recognized by the commission in the subject utility's most recent general rate proceeding, if applicable;

(L) An explanation of how the proposed ISRS is being applied consistent with the rate design methodology utilized to develop the subject utility's rates resulting from its most recent general rate proceeding;

(M) An explanation of how the infrastructure replacement projects associated with the ISRS do not increase revenues by directly connecting the infrastructure replacement to new customers; and

(N) An explanation of when the infrastructure replacement projects associated with the ISRS were completed and became used and useful.

(20) In addition to the information required by section (19) of this rule, the eligible water utility shall also submit the following information, either when it submits the information required by section (19) of this rule or when it files its next general rate case:

(A) An explanation of the efforts to quantify and seek reimbursement for any costs associated with facility relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state or another entity having the power of eminent domain, which could offset the requested ISRS revenues;

(B) If any of the projects associated with the ISRS were funded through financing arrangements directed specifically to the projects, an explanation of how the projects were funded, including the amount of debt and the interest rate on that debt;

(C) An explanation of how long any facilities that were replaced by eligible infrastruc-

ture system replacements had been in service when they were replaced or abandoned; and

(D) An explanation of the request for proposal (RFP) process used, or the reasons that a RFP process was not used, to select the entity that performed the infrastructure replacement projects associated with the ISRS.

(21) In addition to the information required by section (19) of this rule, the eligible water utility shall also provide the following information when it files a petition with the commission seeking to establish, change or reconcile an ISRS:

(A) A description of all information posted on the subject utility's website regarding the infrastructure system replacement surcharge and related infrastructure system replacement projects; and

(B) A description of all instructions provided to personnel at the subject utility's call center regarding how those personnel should respond to calls pertaining to the ISRS.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000 and 393.1006.10, RSMo Supp. 2003. Original rule filed Sept. 19, 2003, effective May 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 393.140, RSMo 1939, amended 1949, 1967; and 393.1006, RSMo 2003.*