

This section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

The agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its Order of Rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the Proposed Rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 386.410, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-2.060 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1576-1578). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission did not receive any written comments specifically addressing this proposed amendment, but did receive written comments from one (1) entity pertaining to proposed rules in 4 CSR 240-3 that are related to one (1) portion of this amendment. The comments focused on the use of the term "purchaser" in the subject proposed rules, which is a term that is also used in what is currently section (9) of 4 CSR 240-2.060. The period for receiving written comments on this proposed amendment ended on October 16, 2002. The commission held a public hearing

on this proposed amendment on October 25, 2002, but received no comments regarding the amendment at that hearing.

COMMENTS: The commenter stated the opinion that it is inappropriate for the commission to use the term "purchaser" in the context of rules in 4 CSR 240-3 pertaining to transactions such as mergers and consolidations, because there is no purchaser in such transactions.

RESPONSE AND EXPLANATION OF CHANGE: While reviewing the comments to 4 CSR 240-3, the commission determined that taking action to correct terms as proposed by the commenter, even though technically appropriate, could be considered a substantive change. Because the commission had stated during the rulemaking process that it would make no substantive changes to its current rules, the commission determines that no changes will be made to the current text. The commission will, however, begin a new rulemaking process to address the issue raised by the commenter. The commission has also determined that it is not appropriate to delete section (9) from rule 4 CSR 240-2.060. Therefore, the commission will change the proposed amendment to avoid deletion of section (9) of 4 CSR 240-2.060 in that rule. The commission will also renumber the remaining sections and make reference to the appropriate newly promulgated rules in 4 CSR 240-3 as shown below.

4 CSR 240-2.060 Applications

(3) If the purchaser under the provisions of 4 CSR 240-3.110, 4 CSR 240-3.115, 4 CSR 240-3.210, 4 CSR 240-3.215, 4 CSR 240-3.310, 4 CSR 240-3.315, 4 CSR 240-3.405, 4 CSR 240-3.410, 4 CSR 240-3.520, 4 CSR 240-3.525, 4 CSR 240-3.605 or 4 CSR 240-3.610 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) In addition to the requirements of section (1), applications for variances or waivers from commission rules and tariff provisions, as well as those statutory provisions which may be waived, shall contain information as follows:

(A) Specific indication of the statute, rule or tariff from which the variance or waiver is sought;

(B) The reasons for the proposed variance or waiver and a complete justification setting out the good cause for granting the variance or waiver; and

(C) The name of any public utility affected by the variance or waiver.

(5) A name change may be accomplished by filing the items below with a cover letter requesting a change of name. Notwithstanding any other provision of these rules, the items required herein may be filed by a nonattorney. Applications for approval of a change of name shall include:

(A) A statement, clearly setting out both the old name and the new name;

(B) Evidence of registration of the name change with the Missouri secretary of state; and

(C) Either an adoption notice and revised tariff title sheet with an effective date which is not fewer than thirty (30) days after the filing date of the application, or revised tariff sheets with an effective date which is not fewer than thirty (30) days after the filing date of the application.

(6) In addition to the general requirements set forth above, the requirements found in Chapter 3 of the commission's rules pertaining to the filing of various types of applications must also be met.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 2—Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.410, RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-2.200 Small Company Rate Increase Procedure is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1578). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.010 General Definitions is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1578–1580). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission did not receive any written comments regarding this proposed rule, but a representative of one (1) entity offered testimony pertaining to the subject of the organization of the various Chapter 3 rules at the public hearing that the commission held regarding the rulemakings related to the development of the commission's new Chapter 3. The testimony offered at the public hearing focused on the definition rules in the new Chapter 3 and how the placement of those rules affected the overall organization of the Chapter 3 rules. The period for receiving written comments on this proposed rule and the other rulemakings related to the development of Chapter 3 ended on October 16, 2002. The public hearing that the commission held on this proposed rule and the other rulemakings related to the development of Chapter 3 occurred on October 25, 2002.

COMMENT: Other than the testimony offered in support of the Chapter 3 related rulemakings by the staff of the commission at the public hearing, the only other testimony offered was presented by a representative of a local law firm. That same firm also offered substantial written comments regarding the subject rulemakings. In addition to testimony offered in response to questions from the commission regarding the firm's written comments, the firm's representative also raised an issue regarding the organization of the Chapter 3 rules. This testimony generally dealt with the fact that not all of the rules in the various "blocks" of rules in the proposed Chapter 3 were num-

bered consistently from the viewpoint of similar requirements that exist from block to block. Specifically, the firm's representative noted that it would have generally been easier to follow the rules if the first rule in every block covered the same subject. The firm's representative further noted that in all but two (2) instances the first rule in each block was the rule that included the definitions of the terms used in the rules in each block. In response to questions from the commission during the hearing, the commission staff's representative testified that the two (2) "blocks" of rules that did not begin with a definition rule did not need such a rule. The staff's representative testified that the reason for this is that all definitions needed for these blocks of rules (the block's pertaining to steam heating utilities and water utilities) are contained in rule 4 CSR 240-3.010, which is the "general" definition rule in Chapter 3.

RESPONSE: Based upon research conducted by its staff subsequent to the public hearing, the commission understands that the issue regarding the numbering inconsistency raised during the public hearing could be addressed. One way to address this issue would be to add a definition rule to the two (2) blocks of rules that do not currently begin with a definition rule and renumber the other rules in those blocks accordingly. The commission has, however, chosen not to undertake that effort at this time. Rather, the commission will undertake that effort as a part of future rulemaking activities that affect these two (2) blocks of rules. No changes have been made to this proposed rule, or any other proposed rule related to the development of the new Chapter 3, as a result of the comments offered at the public hearing.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1580). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002

(27 MoReg 1580). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1580-1581). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1581-1582). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.100 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1582-1583). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on the inclusion of definitions of terms that are not used in other rules. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted written comments regarding this proposed rule noted in its comments that this rule contains the definitions of certain terms that are not actually used in other rules, and suggested that the definition of any term that is not used in other rules should be removed from this rule. Specifically, the comments suggest that the definitions of terms such as affiliate, affiliated entity, affiliate transaction, avoided costs and control be removed.

RESPONSE AND EXPLANATION OF CHANGE: The commission notes that it agrees with the suggestion that any unused definitions should be removed from the proposed rule. The commission also notes, however, that the terms affiliate, avoided costs and control are used in other definitions in rule 4 CSR 240-3.100 and/or in rules in the 4 CSR 240-3.105 thru 4 CSR 240-3.190 "block." As a result, the definitions of these terms will not be removed as suggested. Based on the above, the commission is removing any unused definitions from the proposed rule and renumbering the remaining definitions accordingly.

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

(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 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 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.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1583-1584). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on the inclusion of the term "gas transmission lines" in one (1) section of the rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule stated that the inclusion of the term "gas transmission lines" in subsection (1)(B) is an apparent mistake as this rule applies to electric utility applications for certificates of convenience and necessity, and that certificate application requirements related to gas transmission lines are covered in the corresponding rule related to gas utilities (4 CSR 240-3.205).

RESPONSE: The commission acknowledges that the requirements related to gas utility certificates of convenience and necessity are contained in 4 CSR 240-3.205 as is noted in the comments. The

commission also notes, however, that it could be necessary for an electric utility to construct gas transmission lines, and thus necessary for the electric utility to obtain a certificate of convenience and necessity for such lines. It is for this reason that the term "gas transmission lines" is included in this rule. Based on the above, no changes have been made to the proposed rule as a result of these comments.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1584). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1584–1585). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on the use of the term "purchaser" in one (1) section of the rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule stated the opinion that it is inappropriate for the commission to use the term "purchaser" in this rule, since the rule pertains to utility mergers and consolidations and there is no "purchaser" in such situations.

RESPONSE: The commission notes that the use of the referenced term comes from an existing rule related to this topic, and that in the interest of not making changes that could be considered substantive

when comparing the existing rule and this proposed rule, the term "purchaser" was used in the proposed rule. While the commission agrees with the gist of the comments, it continues to be concerned that any changes to the subject language in the proposed rule could be considered substantive. Based on the foregoing, the commission is not making any changes to the proposed rule at this time.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1585). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1585–1586). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250, 386.800 and 394.312, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.130 Filing Requirements for Applications for Approval of Electric Service Territorial Agreements **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1586). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250, 386.800 and 394.312, RSMo 2000, the commission adopts a rule as follows:

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 **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1586–1587). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.140 Filing Requirements for Applications for Authority for a Change of Electrical Suppliers **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1587–1588). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.145 Filing Requirements for Electric Utility Rate Schedules **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1588–1591). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.150 Filing Requirements for Electric Utility Promotional Practices **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1591–1592). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.155 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1592–1593). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on an apparent incorrect reference in the rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule noted that an apparent error had been made in an internal rule reference contained in paragraph (5)(A)1. of the rule, and suggested that the reference to section (2) therein should be a reference to section (4).

RESPONSE AND EXPLANATION OF CHANGE: The comments correctly point out an error in the proposed rule and the commission is modifying paragraph (5)(A)1. of the proposed rule to correct that error. Additionally, the commission has identified an improper reference in subsection (5)(A) of the proposed rule and is also correcting that error.

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

(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.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1593). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on the title of the rule and a possible duplication of language in regard to another rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule addressed two (2) issues regarding the rule. First, the comments suggested that a better title for this rule could be found and/or that the requirements of this rule could be combined with the requirements of rule 4 CSR 240-3.030, which deals with the same general topic of filing requirements pertaining to general rate increases. The comments noted that the Purpose section of this rule contains a cross-reference to rule 4 CSR 240-3.030, but that this is not believed sufficient. Second, the comments noted that there might be an unnecessary duplication of language in this rule and in rule 4 CSR 240-3.175.

RESPONSE: Regarding the title of this rule and the rule's relationship to rule 4 CSR 240-3.030, the commission notes that rule 4 CSR 240-3.030 contains filing requirements that apply to all regulated utilities and that this rule contains additional requirements that apply only to electric utilities. Accordingly, the commission believes that the title of this rule is appropriate and that the combination of this

rule and 4 CSR 240-3.030 would not be appropriate. The commission also notes that rule 4 CSR 240-3.030 contains a cross-reference to this rule and that there should thus not be any confusion as to what is required of a utility that is filing a general rate increase request. Additionally, the commission notes that the title of this rule was selected in anticipation of additional requirements being added to this rule at a later date through an additional rulemaking. Regarding the possible duplication of language in this rule and rule 4 CSR 240-3.175, the commission notes that while these two (2) rules deal with similar subjects, they deal with different situations and thus the referenced language is necessary in both rules. Based on the above, no changes have been made to the proposed rules as a result of these comments.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.165 Annual Report Filing Requirements for Electric Utilities is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1593-1594). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1594). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on a possible duplication of language in regard to another rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments on this proposed rule noted that there may be an unnecessary duplication of language in this rule and in rule 4 CSR 240-3.160.

RESPONSE: The commission notes that while these two (2) rules deal with similar subjects, they deal with different situations and thus the referenced language is necessary in both rules. Based on this, no changes have been made to the proposed rule as a result of these comments.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1594–1595). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.292, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.185 Submission of Reports Pertaining to the Decommissioning of Electric Utility Plants **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1595–1596). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.190 Electric Utility Reporting Requirements **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1596–1597). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on the addition of the term “electronic communication” in one section of the rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule noted the addition of “electronic communication” as an acceptable means of reporting certain events to the commission, commended the commission for this addition and stated its understanding that this term encompasses both facsimile and e-mail.

RESPONSE: The commission notes that the term “electronic communication” encompasses not only facsimile transmissions and e-mail messages, but also includes submissions made via the commission’s electronic filing and information system. No changes have been made to the proposed rule as a result of these comments.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.200 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1597–1599). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from two (2) entities regarding this proposed rule. The comments focused on the inclusions of definitions for terms that are not used in other rules. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The first entity that submitted comments regarding this proposed rule noted that the rule contains the definitions of certain terms used in rules 4 CSR 240-3.205 thru 4 CSR 240-3.295, but that five (5) of the terms defined in this rule are not actually used in those rules. Because of this, it was suggested that any terms not used in rules 4 CSR 240-3.205 thru 4 CSR 240-3.295 should be removed from this rule to avoid confusion. Specifically, the comments suggested that the following definitions should be removed from the proposed rule: (1) Affiliate; (2) Affiliated entity; (3) Affiliate transaction; (6) Control; and (20) Transportation of gas.

RESPONSE AND EXPLANATION OF CHANGE: The commission notes that it agrees with the suggestion that any unused definitions should be removed from the proposed rule. The commission also notes, however, that the terms affiliate, control and transportation of gas are used in other definitions in rule 4 CSR 240-3.200 and/or in certain rules in the 4 CSR 240-3.205 thru 4 CSR 240-3.295 “block” of rules. As a result, the definitions of those terms will not be removed as suggested. Based on the above, the commission is removing the unused definitions from the proposed rule and renumbering the remaining definitions accordingly.

COMMENT: The second entity that submitted comments regarding this proposed rule noted that the rule contains the definitions of certain terms that are not actually used in other rules, and suggested that the definition of any term that is not used in other rules should be removed from this rule. Specifically, the comments suggested that the definitions of terms such as affiliate, affiliated entity, affiliate transaction and control be removed.

RESPONSE AND EXPLANATION OF CHANGE: The commission notes that it agrees with the suggestion that any unused definitions should be removed from the proposed rule. The commission also notes, however, that the terms affiliate and control are used in other definitions in rule 4 CSR 240-3.200 and/or in certain rules in the 4 CSR 240-3.205 thru 4 CSR 240-3.295 “block” of rules. As a result, the definitions of those terms will not be removed as suggested. Based on the above, the commission is removing the unused definitions from the proposed rule and renumbering the remaining definitions accordingly.

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

(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 sup-

plied 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 aboveground 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.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1599-1600). No changes have been made in the text of

the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1600). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1600-1601). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on the use of the term "purchaser" in one (1) section of the rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule stated the opinion that it is inappropriate for the commission to use the term "purchaser" in this rule, since the rule pertains to utility mergers and consolidations and there is no "purchaser" in such situations.

RESPONSE: The commission notes that the use of the referenced term comes from an existing rule related to this topic, and that in the interest of not making changes that could be considered substantive

when comparing the existing rule and this proposed rule, the term “purchaser” was used in the proposed rule. While the commission agrees with the gist of the comments, it continues to be concerned that any changes to the subject language in the proposed rule could be considered substantive. Based on the foregoing, the commission is not making any changes to the proposed rule at this time.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 24—Public Service Commission
Chapter 3—Filing and Reporting Requirements**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1601). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1601–1602). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1602). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.235 Filing Requirements for Gas Utility General Rate Increase Requests **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1602–1603). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on the title of the rule and a possible duplication of language in regard to another rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule addressed two (2) issues regarding the rule. First, the comments suggested that a better title for this rule could be found and/or that the requirements of this rule could be combined with the requirements of rule 4 CSR 240-3.030, which deals with the same general topic of filing requirements pertaining to general rate increases. The comments noted that the purpose section of this rule contains a cross-reference to rule 4 CSR 240-3.030, but that this is not believed sufficient. Second, the comments noted that there might be an unnecessary duplication of language in this rule and in rule 4 CSR 240-3.275.

RESPONSE: Regarding the title of this rule and the rule’s relationship to rule 4 CSR 240-3.030, the commission notes that rule 4 CSR 240-3.030 contains filing requirements that apply to all regulated utilities and that this rule contains additional requirements that apply only to gas utilities. Accordingly, the commission believes that the title of this rule is appropriate and that the combination of this rule and 4 CSR 240-3.030 would not be appropriate. The commission also notes that rule 4 CSR 240-3.030 contains a cross-reference to this rule and that there should thus not be any confusion as to what is required of a utility that is filing a general rate increase request. Additionally, the commission notes that the title of this rule was selected in anticipation of additional requirements being added to this rule at a later date through an additional rulemaking. Regarding the possible duplication of language in this rule and rule 4 CSR 240-3.275, the commission

notes that while these two (2) rules deal with similar subjects, they deal with different situations and thus the referenced language is necessary in both rules. Based on the above, no changes have been made to the proposed rule as a result of these comments.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.240 Gas Utility Small Company Rate Increase Procedure is **adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1603–1604). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.245 Annual Report Filing Requirements for Gas Utilities is **adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1604). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1604–1605). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.255 Filing Requirements for Gas Utility Promotional Practices is **adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1605). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.260 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1606). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on an apparent typographical error in the rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule pointed out an apparent typographical error in section (3) of the proposed rule, regarding the omission of an underscore at the end of the fifth sentence of this section.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that the noted typographical error exists and is modifying section (3) of the proposed rule accordingly.

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

(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. _____.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.270 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1606–1607). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from two (2) entities regarding this proposed rule. The comments focused on the issue of whether this rule is a “reference” or “signpost” rule or whether it imposes requirements not currently found in the commission’s rules. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The first entity that submitted comments on this proposed rule noted that the rule appears to be a “reference” rule that merely refers the reader to other rules. Accordingly, that entity also requested that the commission confirm that the language in this rule does not place independent obligations on gas corporations outside of the obligations contained in the rules to which reference is made.

RESPONSE AND EXPLANATION OF CHANGE: The commission confirms that this proposed rule is a “reference” rule that is only intended to refer the reader to other rules, and confirms that this rule does not place independent obligations on gas corporations outside of the obligations contained in the rules to which reference is made. Additionally, the commission is making changes to the proposed rule to clarify its intent.

COMMENT: The second entity that submitted comments regarding this proposed rule submitted comments that are best summarized in several parts as follows. (1) The comments note that it is not clear whether the commission intended to make substantive changes in this

proposed rule, and that there is nothing in the Purpose section of the rule to indicate that new requirements are being imposed. (2) The comments note that a concern about the proposed rule comes from the use of the phrase “must be submitted to commission personnel” in several sections of the rule, which is considered to be a new and vague provision. The comments further state that the definition of the term “designated commission personnel” found in 4 CSR 240-3.200(9) is a new definition. (3) The comments note that the proposed rule does not state when any of the required submissions must be made, only that it requires them to be made. (4) The comments note that the proposed rule was apparently intended as a “signpost” for several requirements in another existing rule, 4 CSR 240-40.030. (5) Regarding the comments summarized in items (1) thru (4) above, the comments suggest that the commission change the proposed rule to include a reference where a reader of the rules should go to find the actual submission requirements, as has been done in other instances in other proposed rules. (6) Lastly, the comments note an apparent typographical error in section (10) of the proposed rule, in that the term “yard line” should be “yard lines.”

RESPONSE AND EXPLANATION OF CHANGE: The commission’s response to the above comments will be offered for each group of comments set out above. (1) In response to these comments, the commission notes that there was no intention to make substantive changes to existing requirements by promulgating this rule, and affirmatively states that no new requirements will be imposed by this rule going into effect. (2) In response to these comments, the commission notes that the phrase “must be submitted to commission personnel” is a phrase that is currently used in commission rules pertaining to the subject matter of the proposed rule. Additionally, the commission notes that the term “designated commission personnel” is a term that is already defined in commission rules pertaining to the subject matter of the proposed rule. Specifically, the subject phrase and term are used/included in certain sections of 4 CSR 240-40.030. (3) The commission acknowledges that the proposed rule does not contain any specific information regarding when the required submissions must be made, but notes that the timing of the submissions is contained in the rules referenced in the general section of the proposed rule. (4) The commission notes that the proposed rule is intended as a “signpost” to various requirements in 4 CSR 240-40.030. The commission further notes that it believes it is appropriate to include such a signpost in this rule, in that its intent in developing Chapter 3 is to include in Chapter 3 at least a reference to all filing and submission requirements contained in other commission rules. (5) The commission agrees that certain changes to the proposed rule would help clarify where a reader should go to find the actual submission requirements that are the subject of the proposed rule. (6) The commission notes that the comments submitted are accurate and will correct the referenced typographical error. Based on the foregoing, the commission is modifying the title of and Purpose statement for the proposed rule and reorganizing the rule to clarify its “signpost” intent, and is also correcting the noted typographical error.

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.; and

(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).

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.275 Submission Requirements for Gas Utility Depreciation Studies **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1607–1608). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on a possible duplication of language in regard to another rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule noted that there may be an unnecessary duplication of language in this rule and in rule 4 CSR 240-3.235.

RESPONSE: The commission notes that while these two (2) rules deal with similar subjects, they deal with different situations and thus the referenced language is necessary in both rules. Based on this, no

changes have been made to the proposed rule as a result of these comments.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1608). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one entity regarding this proposed rule. The comments focused on whether this rule places additional obligations on gas corporations or whether it is simply a reference to other commission rules. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule noted that the rule appears to be a “reference” rule that merely refers the reader to other rules, and requested that the commission confirm that the language in this rule does not place independent obligations on gas corporations outside of the obligations contained in the rules to which reference is made.

RESPONSE: The commission confirms that this proposed rule is a “reference” rule that is only intended to refer the reader to other rules, and confirms that this rule does not place independent obligations on gas corporations outside of the obligations contained in the rules to which reference is made. Based on the above, no changes have been made to the proposed rule as a result of these comments.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.299, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.285 Filing Requirements Regarding Certification of Gas Sellers **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1608–1609). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.290 Submission Requirements Regarding Gas Utility Incident, Annual and Safety-Related Condition Reports **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1609). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on whether this rule places additional obligations on gas corporations or whether it is simply a reference to other commission rules. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule noted that the rule appears to be a “reference” rule that merely refers the reader to other rules, and requested that the commission confirm that the language in this rule does not place independent obligations on gas corporations outside of the obligations contained in the rules to which reference is made.

RESPONSE: The commission confirms that this proposed rule is a “reference” rule that is only intended to refer the reader to other rules, and confirms that this rule does not place independent obligations on gas corporations outside of the obligations contained in the rules to which reference is made. Based on the above, no changes have been made to the proposed rules as a result of these comments.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.295 Submission Requirements Regarding Gas Utility Written Procedures for Conversion of Service and Upgrading **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1609–1610). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on whether this rule places additional obligations on gas corporations or whether it is simply a reference to other commission rules. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule noted that the rule appears to be a “reference” rule that merely refers the reader to other rules, and requested that the commission confirm that the language in this rule does not place independent obligations on gas corporations outside of the obligations contained in the rules to which reference is made.

RESPONSE: The commission confirms that this proposed rule is a “reference” rule that is only intended to refer the reader to other rules, and confirms that this rule does not place independent obligations on gas corporations outside of the obligations contained in the rules to which reference is made. Based on the above, no changes have been made to the proposed rule as a result of these comments.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.300 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1610). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on whether additional definitions need to be included in this rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule noted that certain definitions pertaining to sewer utilities, which are found in commission rule 4 CSR 240-60.010(3), are not included in this rule or in rule 4 CSR 240-3.010 (the general definition rule for Chapter 3 that is referenced in this rule) and suggested that such definitions should at least be referenced in this rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission acknowledges that certain definitions contained in 4 CSR 240-60.010(3) are not duplicated in this rule or in rule 4 CSR 240-3.010, but notes that only one (1) of those definitions is used in the Chapter 3 rules (the definition of sewage). As a result, it is not necessary to reference rule 4 CSR 240-60.010(3) in its entirety, but it is necessary to add the missing definition. Based on the above, the commission is modifying the proposed rule by adding the definition of “sewage” found in rule 4 CSR 240-60.010(3) to this rule and renumbering the sections of this rule accordingly.

4 CSR 240-3.300 Definitions Pertaining Specifically to Sewer Utility Rules

(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.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.305 Filing Requirements for Sewer Utility Applications for Certificates of Convenience and Necessity **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1610–1611). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.310 Filing Requirements for Sewer Utility Applications for Authority to Sell, Assign, Lease or Transfer Assets **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1611). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.315 Filing Requirements for Sewer Utility Applications for Authority to Merge or Consolidate **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1611–1612). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on the use of the term “purchaser” in one (1) section of the rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule stated the opinion that it is inappropriate for the commission to use the term “purchaser” in this rule, since the rule pertains to utility mergers and consolidations and there is no “purchaser” in such situations.

RESPONSE: The commission notes that the use of the referenced term comes from an existing rule related to this topic, and that in the interest of not making changes that could be considered substantive when comparing the existing rule and this proposed rule, the term “purchaser” was used in the proposed rule. While the commission agrees with the gist of the comments, it continues to be concerned that any changes to the subject language in the proposed rule could be considered substantive.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, 386.250, 386.310 and 392.200, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.320 Filing Requirements for Sewer Utility Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1612). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.325 Filing Requirements for Sewer Utility Applications for Authority to Acquire the Stock of a Public Utility **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1612-1613). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.330 Sewer Utility Small Company Rate Increase Procedure **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1613-1614). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.335 Annual Report Filing Requirements for Sewer Utilities **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1614). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.340 Filing Requirements for Sewer Utility Tariff Schedules **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1614-1616). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.400 Filing Requirements for Steam Heating Utility Applications for Certificates of Convenience and Necessity **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1616-1617). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on the inclusion of the term “electrical transmission lines” and “electrical production facilities” in the rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule stated that the inclusion of the terms “electrical transmission lines” and “electrical production facilities” in subsection (1)(B) is an apparent mistake as this rule applies to steam heating utility applications for certificates of convenience and necessity, and that certificate application requirements related to electrical transmission lines and electrical production facilities are covered in the corresponding rule related to electric utilities (4 CSR 240-3.105).

RESPONSE: The commission acknowledges that the requirements related to electric utility certificates of convenience and necessity are contained in 4 CSR 240-3.105 as is noted in the comments. The commission also notes, however, that it could be necessary for a steam heating utility to construct electric transmission lines or electrical production facilities, and thus necessary for the steam heating utility

to obtain a certificate of convenience and necessity for such lines. It is for this reason that the terms “electrical transmission lines” and “electrical production facilities” are included in this rule. Based on the above, no changes have been made to the proposed rule as a result of these comments.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.405 Filing Requirements for Steam Heating Utility Applications for Authority to Sell, Assign, Lease or Transfer Assets **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1617). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.410 Filing Requirements for Steam Heating Utility Applications for Authority to Merge or Consolidate **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1617–1618). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on the use of the term “purchaser” in one (1) section of the rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The comments state that it is inappropriate for the commission to use the term “purchaser” in this rule, since the rule pertains to utility mergers and consolidations and there is no “purchaser” in such situations.

RESPONSE: The commission notes that the use of the referenced term comes from an existing rule related to this topic, and that in the interest of not making changes that could be considered substantive when comparing the existing rule and this proposed rule, the term

“purchaser” was used in the proposed rule. While the commission agrees with the gist of the comments, it continues to be concerned that any changes to the subject language in the proposed rule could be considered substantive. Based on the foregoing, the commission is not making any changes to the proposed rule at this time.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.415 Filing Requirements for Steam Heating Utility Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1618). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.420 Filing Requirements for Steam Heating Utility Applications for Authority to Acquire the Stock of a Public Utility **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1618–1619). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250, 393.140 and 393.290, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.425 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1619-1620). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on an apparent typographical error in the rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule pointed out an apparent typographical error in section (3) of the proposed rule, regarding the omission of an underscore at the end of the fifth sentence of this section.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that the noted typographical error exists, and also notes that two similar typographical errors exist in the last sentence of the referenced section. Accordingly, the commission is modifying section (3) of the proposed rule.

4 CSR 240-3.425 Filing Requirements for Steam Heating Utility Rate Schedules

(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" x 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. _____.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250, 393.140 and 393.290, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.435 Annual Report Filing Requirements for Steam Heating Utilities is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1620). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.500 Definitions Pertaining Specifically to Telecommunication Company Rules is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1620-1621). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.505 Filing Requirements for Telecommunications Company Applications for Certificates of Interexchange Service Authority to Provide Customer-Owned Coin Telephone Service is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1621). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

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 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1621-1622). No changes have been made in the text of

the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.515 Filing Requirements for Telecommunications Company Applications for Certificates of Service Authority to Provide Shared Tenant Services **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1622). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.520 Filing Requirements for Telecommunications Company Applications for Authority to Sell, Assign, Lease or Transfer Assets **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1622–1623). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.525 Filing Requirements for Telecommunications Company Applications for Authority to Merge or Consolidate **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1623–1624). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on the use of the term “purchaser” in one (1) section of the rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule stated the opinion that it is inappropriate for the commission to use the term “purchaser” in this rule, since the rule pertains to utility mergers and consolidations and there is no “purchaser” in such situations.

RESPONSE: The commission notes that the use of the referenced term comes from an existing rule related to this topic, and that in the interest of not making changes that could be considered substantive when comparing the existing rule and this proposed rule, the term “purchaser” was used in the proposed rule. While the commission agrees with the gist of the comments, it continues to be concerned that any changes to the subject language in the proposed rule could be considered substantive. Based on the foregoing, the commission is not making any changes to the proposed rule at this time.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.530 Filing Requirements for Telecommunications Company Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1624). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.535 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1624-1625). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on an exemption in the rule that applies to competitive telecommunications companies. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule objected to the inclusion of language that would exempt competitive telecommunications companies from the obligations of this rule, and contended that the inclusion of such language is tantamount to a "substantive" change to the relevant existing obligations. The comments also set forth the rationale for the basis of the stated objection and contention.

RESPONSE AND EXPLANATION OF CHANGE: Upon consideration of the comments, the commission agrees that the language exempting competitive telecommunications companies from the obligations of this rule should not be included in the rule at this time. As a result, the commission is modifying the proposed rule by removing section (1) of the rule and renumbering the remaining sections accordingly.

4 CSR 240-3.535 Filing Requirements for Telecommunications Company Applications for Authority to Acquire the Stock of a Public Utility

(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.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 392.210, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.540 Annual Report Filing Requirements for Telecommunications Companies is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1625). No changes have been made in the text of the pro-

posed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 392.220, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.545 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1625-1630). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on the issue of waivers previously granted for the requirements of the rule under different rule numbers. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule requested that the commission confirm in its order of rulemaking that waivers previously granted for 4 CSR 240-30.010(2)(C), a rule that contains the same requirements as the proposed rule and that is being rescinded in a companion rulemaking, shall extend and apply to the proposed rule so that duplicative waiver proceedings will not be necessary.

RESPONSE AND EXPLANATION OF CHANGE: In response to these comments, the commission confirms that waivers previously granted to telecommunications carriers for the requirements of 4 CSR 240-30.010(2)(C) will extend to the same requirements in the proposed rule and will thus not result in duplicative waiver proceedings. Accordingly, the commission is modifying the proposed rule by adding a new section at the end of the rule pertaining to this matter.

4 CSR 240-3.545 Filing Requirements for Telecommunications Company Rate Schedules

(36) 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.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.550 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1630-1631). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on the issue of waivers previously granted for the requirements of the rule under different rule numbers and on an apparent error in a reference contained in the rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule addressed two (2) issues. First, it was requested that the commission confirm in its order of rulemaking that waivers previously granted for 4 CSR 240-32.030(4)(C), a rule that contains the same requirements as the proposed rule and that is being rescinded in a companion rulemaking, shall extend and apply to the proposed rule so that duplicative waiver proceedings will not be necessary. Second, it was noted that an incorrect reference exists in subsection (5)(B) of the rule, as the currently referenced rule is being rescinded and replaced by a new rule.

RESPONSE AND EXPLANATION OF CHANGE: Regarding the issue of previously granted waivers, the commission confirms that waivers previously granted to telecommunications carriers will extend to the proposed rule and will thus not result in duplicative waiver proceedings. Regarding the incorrect rule reference, the commission notes that the comments are accurate. Based on the above, the commission is modifying subsection (5)(B) of the rule to correct the noted error and is adding a new section to the end of the rule pertaining to the waiver issue.

4 CSR 240-3.550 Telecommunications Company Records and Reports

(5) Companies shall file the following information with the commission:

(B) Each company shall have its tariff on file with the commission in accordance with 4 CSR 240-3.545;

(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.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.555 Telecommunications Company Residential Customer Inquiries is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1631-1632). No changes have been made in the text of

the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.600 Filing Requirements for Water Utility Applications for Certificates of Convenience and Necessity is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1632). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.605 Filing Requirements for Water Utility Applications for Authority to Sell, Assign, Lease or Transfer Assets is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1632-1633). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.610 Filing Requirements for Water Utility Applications for Authority to Merge or Consolidate is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1633). No changes have been made to the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments from one (1) entity regarding this proposed rule. The comments focused on the use of the term "purchaser" in one (1) section of the rule. The period for receiving written comments on this proposed rule ended on October 16, 2002. The commission held a public hearing on this proposed rule on October 25, 2002, but received no comments regarding the rule at that hearing.

COMMENT: The entity that submitted comments regarding this proposed rule stated the opinion that it is inappropriate for the commission to use the term "purchaser" in this rule, since the rule pertains to utility mergers and consolidations and there is no "purchaser" in such situations.

RESPONSE: The commission notes that the use of the referenced term comes from an existing rule related to this topic, and that in the interest of not making changes that could be considered substantive when comparing the existing rule and this proposed rule, the term "purchaser" was used in the proposed rule. While the commission agrees with the gist of the comments, it continues to be concerned that any changes to the subject language in the proposed rule could be considered substantive. Based on the foregoing, the commission is not making any changes to the proposed rule at this time.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.615 Filing Requirements for Water Utility Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1633-1634). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.620 Filing Requirements for Water Utility Applications for Authority to Acquire the Stock of a Public Utility **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1634). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 247.172 and 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.625 Filing Requirements for Applications for Approval of Water Service Territorial Agreements **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1634-1635). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 247.172 and 386.250, RSMo 2000, the commission adopts a rule as follows:

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 **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1635). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 386.250, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.635 Water Utility Small Company Rate Increase Procedure **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1636). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.640 Annual Report Filing Requirements for Water Utilities **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1636–1637). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

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

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission adopts a rule as follows:

4 CSR 240-3.645 Filing Requirements for Water Utility Rate Schedules **is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1637–1638). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 10—Utilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 392.210 and 392.220, RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-10.070 Minimum Filing Requirements for General Rate Increase Requests **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1638). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 10—Utilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 392.210 and 393.140, RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-10.080 Annual Report Filing Requirements **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1638–1639). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication of the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 13—Service and Billing Practices for Residential Customers of Electric, Gas and Water Utilities

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000 and 393.130, RSMo Supp. 2002, the commission amends a rule as follows:

4 CSR 240-13.055 Cold Weather Maintenance of Service: Provision of Residential Heat-Related Utility Service During Cold Weather **is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1639). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 14—Utility Promotional Practices**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, 386.250, 386.610 and 393.140, RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-14.040 Filing of Promotional Practices is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1639-1640). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 393.140, RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-20.010 Rate Schedules is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1640). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-20.030 Uniform System of Accounts—Electrical Corporations is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1640-1641). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-20.060 Cogeneration is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1641-1644). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.292, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-20.070 Decommissioning Trust Funds is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1644-1645). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 393.140, RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-20.080 Electrical Corporation Reporting Requirements for Certain Events is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1646). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 21—Electric Service Territorial Agreements**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 394.312 and 386.800, RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-21.010 Schedule of Fees is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1646). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 30—Telephone Utilities**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 392.220, RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-30.010 Rate Schedules is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1646–1647). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 32—Telecommunications Service**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, 386.250, 386.310 and 392.200, RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-32.030 Records and Reports is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1647). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 33—Service and Billing Practices for
Telecommunications Companies**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, 386.250 and 392.200, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-33.060 Residential Customer Inquiries is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1647–1648). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 40—Gas Utilities and Gas Safety Standards**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 393.140(11), RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-40.010 Rate Schedules is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1648). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 40—Gas Utilities and Gas Safety Standards**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000, the commission amends a rule as follows:

**4 CSR 240-40.040 Uniform System of Accounts—Gas
Corporations is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1648–1649). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 45—Certification of Energy Sellers**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 393.299, RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-45.010 Certification of Energy Sellers is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1649-1650). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 50—Water Utilities**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 393.140(11), RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-50.010 Rate Schedules is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1650). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 51—Water Service Territorial Agreements**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 247.172, RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-51.010 Schedule of Fees is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1650). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 60—Standards of Service by Sewer Utilities**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 393.140(11), RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-60.030 Tariff Schedules is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1650-1651). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 80—Steam Heating Utilities**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under section 393.290, RSMo 2000, the commission rescinds a rule as follows:

4 CSR 240-80.010 Rate Schedules is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1651). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 80—Steam Heating Utilities**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250, 393.140 and 393.290, RSMo 2000, the commission amends a rule as follows:

4 CSR 240-80.020 Uniform System of Accounts—Heating Companies is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1651-1652). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication of the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 7—Core Rules for Psychiatric and Substance
Abuse Programs**

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Mental Health under sections 630.050 and 630.055, RSMo 2000, the department amends a rule as follows:

9 CSR 10-7.110 Personnel is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1772). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received two (2) comments on the proposed amendment.

COMMENT: Commenting on section (5), one commenter indicated that the language of the proposed amendment is unclear as to how it will affect nursing students who wish to do clinical practicums with community providers and the term “other support services” is also unclear.

RESPONSE: The department disagrees with this comment and has not revised the rule as requested.

COMMENT: The department received one comment relating to the application of the requirement to Medicaid services for persons who are developmentally disabled.

RESPONSE: This rule does not apply to Medicaid services for persons who are developmentally disabled.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 10—Director, Department of Mental Health
Chapter 7—Core Rules for Psychiatric and Substance
Abuse Programs**

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Mental Health under sections 630.050 and 630.055, RSMo 2000, the department amends a rule as follows:

9 CSR 10-7.130 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2002 (27 MoReg 1951). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Even though no specific comment was received, the department is making the following grammatical change in subsection (5)(E). The department is changing the word “who” to “that” when it refers to an organization or organizations.

9 CSR 10-7.130 Procedures to Obtain Certification

(5) The department may grant certification on a temporary, provisional, conditional, or compliance status. In determining certification status, the department shall consider patterns and trends of performance identified during the site survey.

(E) For organizations that have attained full accreditation under standards for behavioral healthcare from CARF, JCAHO, and COA, and that receive an expedited site survey from the department, compliance status from the department shall be for a period of time equal to the length of the accreditation received from the accrediting entity.

**Title 9—DEPARTMENT OF MENTAL HEALTH
Division 30—Certification Standards
Chapter 4—Mental Health Programs**

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Mental Health under sections 630.050 and 630.055, RSMo 2000, the department adopts a rule as follows:

9 CSR 30-4.195 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 1, 2002 (27 MoReg 1772–1784). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received several comments on the proposed rule.

COMMENT: One person stated that paragraph (4)(B) 2. is unclear as to what is meant by status of the caller.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this comment and since it appears to be redundant, has revised the rule accordingly.

COMMENT: Commenting on subsection (5)(C), one person suggested that the wording should be changed since most administrative agents contract for hotline services.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this comment and has changed the rule accordingly.

COMMENT: One commenter indicated that for simplification in (5)(C), each hotline should maintain a written description of the telephone hotline system containing information in items 1 through 8.

RESPONSE: The department disagrees with this comment because it is the responsibility of each administrative agent to provide the description of the hotline system however, the description could be shared with the hotline provider.

COMMENT: Commenting on (5)(C)6., one person feels that adequate resources are not available to have twenty-four (24)-hour availability of interpreters in a face-to-face setting.

RESPONSE: The department disagrees with this comment and has not revised the rule as requested.

COMMENT: Regarding subsection (5)(D), the commenter suggested changing the wording to reflect that more than one agency staff person could be on call.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees and has changed the rule accordingly.

COMMENT: In subsection (5)(I), one commenter suggested changing the wording to require each administrative agent to be able to demonstrate how specialized staff are to be reached instead of requiring a written protocol.

RESPONSE: The department disagrees and has not revised the rule as requested.

COMMENT: One commenter, in subsection (5)(J), suggested that it would be more appropriate if administrative agents are required to have a Continuous Quality Improvement (CQI) process in place to review complaints and adverse outcomes. This process may not occur within the twenty-four (24)-hour time limit. The commenter felt that this is overly prescriptive without appropriate cost benefit in an under funded system.

RESPONSE: The department disagrees and has not revised the rule as requested. This policy is consistent with requirements previously established in conjunction with providers.

COMMENT: Commenting on (5)(L)6. one person feels that adequate resources are not available to have twenty-four (24)-hour availability of interpreters in a face-to-face setting.

RESPONSE: The department agrees with this comment and has not revised the rule as requested.

COMMENT: In subsection (5)(O), one commenter stated that it is clinically inappropriate and potentially costly to have a phone only response only when both client and on-call staff agree. Instead, the commenter recommends that if the client is unhappy and complains, then the CQI process mentioned in 5 should be employed to investigate.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this comment and has not revised the rule as requested.

COMMENT: In subsection (5)(P)1. through 6, one commenter recommended removing number 5 from the list.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this comment and has revised the rule accordingly.

COMMENT: One commenter indicated that subsections (6)(A) and (B) should be removed.

RESPONSE: The department disagrees with this comment and has not revised the rule as requested.

COMMENT: Regarding subsection (6)(A)13. where it indicates that the general public be made aware of the crisis system and two (2) paragraphs later, it is further qualified that this must be done on an "ongoing basis," one commenter indicated that given the funding inadequacies, it seems inappropriate to require agencies to "case find" and further stretch inadequate resources.

RESPONSE: The department disagrees with this comment and has not revised the rule as requested.

COMMENT: In subsection (6)(E), one commenter suggested that requiring providers to publish the telephone number of the hotline be removed due to lack of funding.

RESPONSE: The department disagrees with this comment and has not revised the rule as requested.

COMMENT: One commenter suggested that (6)(F) be removed because there are no current studies suggesting best practices in the Access Crisis Intervention (ACI) system.

RESPONSE: The department disagrees with this comment and has not revised the rule as requested.

COMMENT: In subsection (7)(E), the commenter suggested changing the wording to reflect that more than one agency staff person could be on call.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this comment and has changed the rule accordingly.

COMMENT: Commenting on subsection (7)(E), one commenter indicated that if an administrative agent operates its own ACI system, they should be exempt from this standard and only held responsible for the system to contact specialized program employees.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this comment and has changed the rule accordingly.

COMMENT: One commenter recommended deleting subsection (7)(F).

RESPONSE: The department disagrees with this comment and has not revised the rule as requested.

COMMENT: Another commenter indicated that (7)(F) the word "region" should be removed regarding the training plan.

RESPONSE AND EXPLANATION OF CHANGE: The department disagrees with this comment but has changed the rule for the purpose of clarification.

COMMENT: Commenting on subsection (7)(G), one person stated that the same training curriculum should not be required annually if master's level staff demonstrate ongoing competence.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this comment and has changed the rule by removing the phrase "at least annually."

COMMENT: Another comment was received on subsection (7)(G) indicating that the intent was not to provide the same training annually but to tie the training to the thirty-six (36) hours of training required by the core rules.

RESPONSE AND EXPLANATION OF CHANGE: The department agrees with this comment and has changed the rule by removing the phrase "at least annually."

COMMENT: In subsection (7)(K), one commenter suggested that it be revised to state that each agency will review competencies of ACI staff regarding items 1 through 4.

RESPONSE: The department disagrees with this comment and has not revised the rule as requested.

COMMENT: Regarding subsection (7)(L), one commenter indicated that some agencies are so small, it would be difficult for staff to shadow experienced staff as it would take months to meet this goal.

RESPONSE: The department disagrees with this comment and has not revised the rule as requested.

9 CSR 30-4.195 Access Crisis Intervention Programs

(4) Consumer Records.

(B) At a minimum, those programs funded for ACI must keep the following records for telephone hotline services when possible to obtain from caller:

1. Date and time of telephone call;
2. Identity of caller, including but not limited to, parent, client, law enforcement, judge, hospital, emergency room, mental health professional;
3. Name, address, telephone number, and date of birth;
4. Presenting problem;
5. Disposition and follow-up.

(5) Treatment.

(C) ACI programs must operate or arrange for a twenty-four (24)-hour telephone hotline. Each program shall have a written description of the telephone hotline system including the following:

1. Name of the agency or contractor that operates the hotline;
2. Numbers and qualifications of hotline staff;
3. Written documentation that clinical supervision is provided including but not limited to: meeting minutes, supervision logs, or peer review processes;
4. Written description of how the telephone hotline is staffed;
5. Written documentation of case reviews and quality assurance activities relating to hotline services;

6. Written documentation of how telephone hotline services are provided to hard-of-hearing, deaf and persons who have a limited understanding of the English language;

7. Written description of ongoing hotline outreach activities;

8. Written description of a process for identifying and utilizing community resources in the delivery of telephone hotline services.

(D) Each administrative agent must have designated agency staff on call to the ACI system twenty-four (24) hours per day and seven (7) days per week.

(O) When a call is referred to mobile response, a phone only response is appropriate if the clinical needs of the person who is in crisis can be addressed over the phone and/or the crisis has been deescalated.

(P) Each agency providing ACI services must have safety mechanisms in place for mobile response. These may include but are not limited to:

1. Mobile phones;
2. Risk assessments both for phone and continually during contact;
3. Availability of multiple staff to respond for face-to-face contact;
4. Back-up available by pager;
5. Written protocols for mobile response to be delivered in safe locations when necessary.

(7) Personnel and Staff Development.

(E) For administrative agents that subcontract for hotline services this standard applies. Administrative agents shall have designated staff on call to the ACI system twenty-four (24) hours per day seven (7) days per week for specialized programs. This designated staff person shall have received training and have experience in responding to crisis situations with individuals and families.

(F) Each region and/or provider must have an ACI Training Plan. The training plan shall include consumers, families and consumer advocates in the development and implementation of the plan.

(G) Staff providing ACI services shall complete the designated ACI training required by the department, that includes but is not limited to the following core competencies as defined by the department:

1. Crisis intervention strategies and techniques;
2. ACI and legal issues;
3. Safety;
4. ACI responsiveness to consumers;
5. Other competencies as required by the department.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 5—Air Quality Standards and Air Pollution
Control Rules Specific to the St. Louis Metropolitan Area**

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-5.170 Control of Odors From Processing of Animal Matter is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 3, 2002 (27 MoReg 1462). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this amendment.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions,
Sampling and Reference Methods and Air Pollution
Control Regulations for the Entire State of Missouri**

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-6.060 Construction Permits Required is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1704-1707). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received concerning this amendment.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions,
Sampling and Reference Methods and Air Pollution
Control Regulations for the Entire State of Missouri**

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-6.065 Operating Permits is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 3, 2002 (27 MoReg 1462-1471). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program receive one comment from the U.S. Environmental Protection Agency (EPA).

COMMENT: The EPA commented that they support the amendments to 10 CSR 10-6.065 and that they appreciate the department's prompt attention to these issues.

RESPONSE: The department's Air Pollution Control Program welcomes the support of EPA and agrees that these changes address the three (3) issues identified in the Notice of Deficiency published March 25, 2002.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions,
Sampling and Reference Methods and Air Pollution
Control Regulations for the Entire State of Missouri**

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission amends a rule as follows:

10 CSR 10-6.120 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1707-1708). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received three (3) comments from two (2) sources, the U.S. Environmental Protection Agency (EPA) and the Doe Run Company.

COMMENT: The EPA provided comment that the heading for subsection (2)(C) should match the smelter name used in the lead plan.
RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program agrees with the comment. The subsection heading has been changed to Doe Run Resource Recycling Division.

COMMENT: The EPA provided comment that the amendment to the daily throughput limits appear to be related to the annual furnace production limits in the facility's prevention of significant deterioration (PSD) permit. If this rule action is adopted, the EPA will evaluate it in conjunction with whatever permit limits exist at the time of their approvability determination.

RESPONSE: The department's Air Pollution Control Program is reviewing a PSD permit application for the Doe Run Resource Recycling Division. That application includes increasing the total output from the installation. The amended daily throughput limits in 10 CSR 10-6.120 are intended to provide the Doe Run Resource Recycling Division with enough short term operating flexibility as to follow market trends. Since the total throughput does not increase, production is not expected to increase as a result of this rulemaking. The rule text has not been changed as a result of the comment.

COMMENT: The Doe Run Company commented that the revised furnace throughput limits presented at the public hearing did not match the amended limits in 10 CSR 10-6.120.

RESPONSE: The department's Air Pollution Control Program agrees with the comment. The amendment as published in the September 16, 2002, *Missouri Register* was correct. The testimony presented for public hearing had two (2) values transposed. The rule text has not been changed as a result of the comment.

10 CSR 10-6.120 Restriction of Emissions of Lead From Specific Lead Smelter-Refinery Installations

(2) Provisions Pertaining to Limitations of Lead Emissions from Specific Installations.

(C) Doe Run Resource Recycling Division. The following applies to Doe Run's 1998 and ongoing lead producing operations at this installation.

1. Lead emissions from stacks. This installation shall limit lead emissions into the atmosphere to the allowable amount as shown in Table III.

Table III

Stack Name	Emissions Limitation (lbs per 24 hours)
Main Stack	540.0

2. Fugitive lead emissions from lead production processes. This installation shall limit production from processes that emit lead to the ambient air to the allowable amount as shown in Table IV.

Table IV

Process Name	Throughput (tons per day)
Blast Furnace	786 Charge
Reverb Furnace	500 Charge
Rotary Melt	300 Charge
Refinery	648 Lead Cast

3. Record keeping. The operator shall keep records of daily process throughput corresponding with the processes in Table IV in paragraph (2)(C)2. of this rule. These records shall be maintained on-site for at least three (3) years and made available upon the request of the director.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions,
Sampling and Reference Methods and Air Pollution
Control Regulations for the Entire State of Missouri**

ORDER OF RULEMAKING

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission adopts a rule as follows:

10 CSR 10-6.410 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on September 16, 2002 (27 MoReg 1708-1716). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received a total of sixteen (16) comments from Ameren Services, Associated Industries of Missouri (AIM), Boeing, the Regulatory Environmental Group for Missouri (REGFORM), the St. Louis Regional Chamber and Growth Association (RCGA) and the U.S. Environmental Protection Agency (EPA).

COMMENT: AIM, REGFORM and RCGA commented that they are in support of this rule.

RESPONSE: The department's Air Pollution Control Program appreciates the support for this rulemaking. No changes were made as a result of this comment.

COMMENT: AIM, REGFORM and RCGA commented that the proposed language in subparagraph (3)(A)10.A. does not allow emission reduction credits (ERCs) to be generated for retirement of pollution-emitting equipment or replacement of such equipment with non-polluting equipment when no construction permit is required for the replacement unit.

RESPONSE: Subparagraph (3)(A)10.A. does not limit the type of reductions that can be used to generate ERCs. The purpose of this subparagraph is to limit the time frame in which an installation can take credit for retirement and replacement of emission units. In cases where no construction permit is required, such as the example given in the comment, a modification to the operating permit could be used to satisfy requirements of this rule. No changes were made as a result of this comment.

COMMENT: AIM, REGFORM and RCGA commented that the proposed language in subparagraph (3)(A)10.B. only allows ERCs to be generated for installation shutdowns if the installation to be shut down is located in a nonattainment area. Once the St. Louis area is redesignated to attainment of the one-hour ozone standard, this provision will no longer be available to sources in the area. As the proposed maintenance plan for the St. Louis area maintains offsets as part of New Source Review (NSR) permitting requirements, an owner/operator of an installation should continue to be allowed to generate ERCs.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program agrees that if offsets continue to be a part of NSR permitting requirements, generation of ERCs should be allowed. Subparagraph (3)(A)10.B. has been revised to allow generation of ERCs from installation shutdowns in any area where the state implementation plan requires offsets.

COMMENT: AIM, REGFORM and RCGA commented that the use of the word — current — in subparagraph (3)(B)4.D. could be confusing in the future.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program agrees that the meaning of subparagraph (3)(B)4.D. could be confusing. The proposed language in subparagraph (3)(B)4.D. essentially stated that only credits banked before or after August 28, 2001 can be traded. Since this statement does not prevent trading of any credits, this subparagraph has been deleted.

COMMENT: Ameren Services, AIM, REGFORM and RCGA commented that proposed language in subparagraph (3)(D)1.B. only allows sources in nonattainment areas to bank ERCs. Once the St. Louis area is redesignated to attainment of the one-hour ozone standard, this provision will no longer be available to sources in the area. As the proposed maintenance plan for the St. Louis area maintains offsets as part of NSR permitting requirements, an owner/operator of an existing installation should continue to qualify for banking of ERCs.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program agrees that if offsets continue to be a part of NSR permitting requirements, banking of ERCs should be allowed. Subparagraph (3)(D)1.B. has been revised to allow banking of ERCs generated in any area where the state implementation plan requires offsets.

COMMENT: Ameren Services commented that because sources in approved attainment or maintenance demonstration or New Source Review preconstruction permit modeling domains are eligible to generate ERCs, they should be included among the sources in paragraph (3)(D)1. that are eligible to bank ERCs.

RESPONSE: Credits generated in modeling domains are to be used only for demonstrating no negative air quality impact in air quality impact modeling. The banking provisions of subsection (3)(D) are available only for reductions that are to be used for offsets. Therefore, no changes were made as a result of this comment.

COMMENT: Ameren Services, AIM, Boeing, REGFORM and RCGA commented that the requirement to have the signature and seal of a Missouri professional engineer on every Notice and Certification of Generation, Notice of Intent to Use and Notice of Withdrawal seems overly burdensome and does not protect the validity of ERCs. AIM, Boeing, REGFORM and RCGA further commented that a company's own engineers, whether they are professional engineers or not, are more familiar with the company's emission units than an outside professional engineer.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program agrees with this comment. The Missouri Air Conservation Law already provides the authority to penalize those who knowingly submit false information in any

form, notice or certification. This is sufficient incentive for those who prepare notices for the banking and trading program to ensure that the notices are complete and accurate. Therefore, paragraphs (4)(B)11., (4)(C)11., and (4)(D)7. have been revised.

COMMENT: Ameren Services commented that paragraph (3)(A)4. seems to make air quality modeling a condition of every trade. Ameren goes on to suggest that the first sentence of paragraph (3)(A)4. be deleted.

RESPONSE AND EXPLANATION OF CHANGE: It is not the intent of the rule to require air quality modeling for every trade; therefore, the first sentence of paragraph (3)(A)4. has been deleted.

COMMENT: Ameren Services commented that the second sentence of paragraph (3)(A)5. appears out of place.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program agrees. The second sentence of paragraph (3)(A)5. has been moved to new paragraph (3)(A)13.

COMMENT: EPA commented that the applicability section of this rule implies that it is available for a number of purposes that are explicitly disallowed by subsequent portions of the rule. EPA further commented that the rule should state that ERCs are only available for offsets and for prevention of significant deterioration (PSD) sources that need emission decreases from existing sources in their area of impact to mitigate air quality impacts from new sources and modifications.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program agrees that in order to prevent confusion allowed uses of ERCs should be explicitly stated. The words—or use—have been removed from subsection (1)(A). This subsection now only describes the sources that may generate ERCs. Subsection (1)(C), which is a list of allowed ERC uses, has been added to the rule.

COMMENT: EPA commented that the rule should clarify that it does not supersede any of the requirements of underlying NSR rules.

RESPONSE: The department's Air Pollution Control Program believes that the rule—specifically paragraphs (3)(B)5. and (3)(B)8.—sufficiently states that it does not supersede NSR requirements. No changes were made as a result of this comment.

COMMENT: EPA commented that subparagraph (1)(A)3.B. should refer to an area that is a maintenance area for a criteria pollutant, as maintenance areas are not designated.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program agrees with this comment. To respond to this comment as well as comments requesting that generation of ERCs be allowed in attainment and nonattainment areas, subparagraph (1)(A)3.B. has been changed to reflect that ERCs may be generated by sources in maintenance areas in which emissions offsets are required for new sources or modifications by the state implementation plan.

COMMENT: Ameren Services and EPA commented that subparagraph (1)(A)3.C. is inconsistent with the definition of modeling domain in subsection (2)(L). The definition refers to the area modeled for an attainment or maintenance demonstration, while subparagraph (1)(A)3.C. refers to a preconstruction permit modeling domain, which is not the same thing.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program agrees that there are inconsistencies between the definition of the term modeling domain and its use in subparagraph (1)(A)3.C. The definition of modeling domain has been widened to make the meaning of subparagraph (1)(A)3.C. clear.

COMMENT: EPA commented that subparagraphs (3)(B)6.A. and (3)(B)6.B. are somewhat contradictory. Subparagraph (3)(B)6.B.

states that ERCs may be used within the same modeling domain in which they were generated, whereas subparagraph (3)(B)6.A. states that ERCs may be used only within the same nonattainment or maintenance area in which they were generated.

RESPONSE AND EXPLANATION OF CHANGE: Since a modeling domain could potentially include portions of both nonattainment and maintenance areas, these portions of the rule are in conflict. In order to protect air quality in nonattainment areas, subparagraph (3)(B)6.B. has been amended to make ERC use within a modeling domain subject to the limitations of subparagraph (3)(B)6.A.

COMMENT: EPA commented that the proposed rule makes no mention of the attainment status of an area when deciding whether reductions from shutdowns may be banked. EPA suggested that in the event an area is redesignated nonattainment and does not have an approved attainment plan, the state should incorporate the concepts in 40 CFR 51.165(a)(3)(ii)(C) into this rule.

RESPONSE AND EXPLANATION OF CHANGE: The department's Air Pollution Control Program agrees that this rule does not address shutdowns in nonattainment areas lacking an attainment plan. As a result, subparagraph (3)(A)10.C., which incorporates 40 CFR 51.165(a)(3)(ii)(C) by reference, was added.

COMMENT: EPA commented that the rule is not clear on how ERCs can be used to demonstrate compliance with alternate emission limits (AELs).

RESPONSE AND EXPLANATION OF CHANGE: Alternate emission limits are a tool that sources in ozone nonattainment areas can use to meet required volatile organic compound reductions. Rules that establish these required reductions are reasonably available control technology (RACT) rules. Subparagraph (3)(B)5.D. states that ERCs may not be used to meet RACT requirements; therefore, ERCs may not be used to demonstrate compliance with AELs. Language referring to the use of ERCs to establish AELs has been deleted from paragraph (3)(D)3.

10 CSR 10-6.410 Emissions Banking and Trading

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) Applicability.

(A) The generation of emission reduction credits (ERCs) in conjunction with this rule is available to installations that meet the following requirements:

1. Emit more than ten (10) tons per year for a criteria pollutant or its precursors as reported on their Emissions Inventory Questionnaire;

2. Have an operating permit as specified in 10 CSR 10-6.065 Operating Permits; and

3. Are located within any of the following areas:

A. An area that has been designated as a nonattainment area for a criteria pollutant;

B. A maintenance area for a criteria pollutant in which emissions offsets are required for new sources or modifications by the state implementation plan (SIP); or

C. A United States Environmental Protection Agency (U.S. EPA) approved attainment or maintenance demonstration or New Source Review preconstruction permit modeling domain, unless it is a violation of federal law.

(C) The use of ERCs in conjunction with this rule is limited to the following:

1. Emissions offsets to satisfy New Source Review (NSR) permitting requirements; or

2. For sources needing emission decreases from existing sources in their area of impact to mitigate air quality impacts from new sources or modifications under prevention of significant deterioration (PSD) requirements.

(2) Definitions.

(L) Modeling domain—A geographic area covered by an air quality model.

(3) General Provisions.

(A) General Rules for Generation and Use.

1. To become an account holder, a person must complete an account application, as specified in subsection (4)(A) of this rule, and be assigned a unique account identification number by the Missouri Department of Natural Resources' Air Pollution Control Program.

2. Each account holder must designate an authorized account representative and an alternate authorized account representative on the account application.

3. Except as provided under paragraph (3)(B)2. of this rule, any source may generate an ERC by reducing emissions, in the amount determined under paragraph (3)(B)1. ERC generators must ensure that ERCs are real, properly quantified, permanent and surplus.

4. There shall be no resulting adverse impact on air quality.

5. The director of the Missouri Department of Natural Resources' Air Pollution Control Program may not approve use of offsets where that use would interfere with the nonattainment control strategy contained in the Missouri State Implementation Plan.

6. Governmental approvals. No ERC can be transferred without prior notification of intent to transfer to the director of the Missouri Department of Natural Resources' Air Pollution Control Program. No ERC can be retired without prior notification of intent to use. ERCs that are used for NSR offsets shall have prior director approval.

7. Market participation. Any account holder may transfer, buy, sell, trade, or otherwise convey ERCs to another account holder in any manner in accordance with this rule.

8. Limited authorization to emit. An ERC created under this rule is a limited authorization to emit a criteria pollutant or its precursor in accordance with the provisions of this rule. An ERC does not constitute a property right. Nothing in this rule shall be construed to limit the authority of the Missouri Air Conservation Commission to terminate or limit such authorization.

9. Serial numbers. Each ERC will be assigned a unique identification number.

10. Shutdowns.

A. ERCs may be generated when a unit is shutdown or retired if the new replacement equipment is directly replacing the retired unit and the permit is applied for within one (1) year of the shutdown or retirement of the existing unit.

B. ERCs may be generated for entire installation shutdowns if the installation is located in an area where offsets are required by the state implementation plan and if the installation is defined as a major source for the pollutant or a precursor of the pollutant for which the area is classified. These ERCs shall be reduced by twenty-five percent (25%) and rounded to the nearest ton at the time of deposit into the generator's account.

C. In nonattainment areas lacking an approved attainment plan, banking of ERCs from shutdowns is subject to the provisions of 40 CFR 51.165(a)(3)(ii)(C), which is incorporated by reference.

11. Environmental contribution.

A. On December 31 of each year, the banked ERCs that were deposited in previous calendar years shall be reduced by three percent (3%).

B. The department shall deduct three percent (3%) of these ERCs from each account holders' banked ERCs. The remaining account balances shall be rounded down to the nearest ERC.

C. If the account holder wishes for specific serial numbered ERCs to be deducted for environmental contribution, a letter specifying the serial numbers must be received by the director of the Missouri Department of Natural Resources' Air Pollution Control Program by December 1 of each year.

D. On December 31 of each year, ERCs that have been reserved by an approved Notice of Intent to Use shall not be subject to the three percent (3%) environmental contribution.

E. In the event that ERCs are not taxed on December 31 due to being reserved and the ERCs are subsequently reinstated, a three percent (3%) environmental contribution shall be deducted at that time for each year that the ERCs were reserved and would have been subject to the environmental contribution.

12. ERCs shall be used on a first-in, first-out basis, unless specific serial numbers are included in the Notice of Intent to Use, Notice of Withdrawal, Notice of Intent to Transfer or at the time of environmental contribution as specified in subparagraph (3)(A)11.C. of this rule. If serial numbers are not specified, the oldest ERCs in an account shall be reserved and/or retired first.

13. The trading or use of ERCs in a modeling domain may be based on modeling performed on a concentration basis.

(B) ERC Generation.

1. Computation of ERCs.

A. The number of ERCs shall be the difference between—

(I) The amount of actual emissions that would have been emitted during the generation period based on actual activity levels during that period and normal source operation; and

(II) The amount of actual emissions during the generation period based on actual activity levels during that period.

B. Protocols. The amount of ERCs must be calculated using quantification protocols that meet the requirements of paragraph (3)(B)7. of this rule.

2. Limitations on generation. An ERC shall not be created by emissions reductions of activities or source categories identified in this subsection:

A. Permanent shutdowns or curtailments, unless it meets the requirements of paragraph (3)(A)10. of this rule;

B. Modification or discontinuation of any activity that is otherwise in violation of any federal, state or local requirements;

C. Emission reductions required to comply with any state, federal or local action including but not limited to:

(I) State, federal, or local consent agreements;

(II) Any provision of a state implementation plan; or

(III) Requirements for attainment of a National Ambient Air Quality Standard;

D. Emission reductions of hazardous air pollutants from application of a standard promulgated under section 112 of the Clean Air Act;

E. Reductions credited or used under any other emissions trading program;

F. Emission reductions occurring at a source which received an alternate emission limit to meet a state reasonably available control technology (RACT) requirement, except to the extent that the emissions are reduced below the level that would have been required had the alternate emission limit not been issued; or

G. Emission reductions previously used in determining net emission increases or used to create alternate emission limits.

3. Notice and Certification of Generation.

A. The owner or operator of a generator source shall provide a Notice and Certification of Generation to the Missouri Department of Natural Resources no later than ninety (90) days after the ERC generation activity was completed.

B. Required information. The Notice and Certification of Generation shall include the information specified in subsection (4)(B) of this rule.

C. The department shall review the Notice of Generation and notify the authorized account representative of approval or denial of the Notice of Generation within thirty (30) days of receipt of the notice.

D. The Notice and Certification of Generation shall be accompanied by an operating permit modification application.

E. Certification under penalty of law. Any Notice and Certification of Generation submitted pursuant to this subsection shall contain certification under penalty of law by a responsible official of the generator source of truth, accuracy and completeness. This certification shall state that based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.

4. ERC use.

A. Time of acquisition. ERCs may not be used until they are acquired by the user source.

B. Sufficiency. The user source must hold sufficient ERCs to cover its offset obligation.

C. Offset calculation. The amount of ERCs needed to offset emissions shall be the anticipated actual emissions multiplied by the offset ratio.

D. Notice of Intent to Use ERCs.

(I) ERCs may be used only if the authorized account representative of the user source submits to the staff director of the Missouri Department of Natural Resources' Air Pollution Control Program a Notice of Intent to Use.

(II) Required information. The Notice of Intent to Use ERCs shall include the information specified in subsection (4)(C) of this rule.

(III) The department shall review the Notice of Intent to Use and notify the facility of approval or denial within thirty (30) days of receipt of the notice.

(IV) The Missouri Department of Natural Resources' Air Pollution Control Program shall reserve the specified ERCs when the permit application is deemed complete by the Initial Review Unit.

(V) Upon issuance of the construction permit, the appropriate number of reserved ERCs shall be permanently retired.

E. Notice of Withdrawal.

(I) An account holder may at any time withdraw ERCs from the program.

(II) Required information. The Notice of Withdrawal shall include the information specified in subsection (4)(D) of this rule.

(III) The department shall review the Notice of Withdrawal and notify the facility of approval or denial within thirty (30) days. Upon approval, the specified ERCs shall be removed from the facility's account.

F. Notice of Transfer.

(I) Account holders seeking an account transfer must submit a Notice of Transfer.

(II) Required information. The Notice of Transfer shall include the information specified in subsection (4)(E) of this rule.

(III) The department shall review the Notice of Transfer and notify the facilities of approval or denial within thirty (30) days. Upon approval, the specified ERCs shall be transferred to the specified account.

5. Use limitations. ERCs may not be used—

A. Before acquisition by the user of the ERCs;

B. For netting or to avoid the applicability of NSR requirements;

C. For NSR offsets unless the requirements of paragraph (3)(B)8. of this rule are met;

D. To meet Clean Air Act requirements for new source performance standards (NSPS) under section 111; lowest achievable emission rate (LAER) standards; best available control technology (BACT) standards; hazardous air pollutant (HAP) standards under section 112; reasonably available control technology (RACT);

E. To meet the requirements for one class of criteria pollutants or precursor by using ERCs generated in a different class of

pollutants or precursors (e.g., NO_x reductions may not be exchanged for volatile organic compound (VOC) increases, or vice-versa); or

F. To meet requirements contained in Title IV of the Federal Clean Air Act.

6. Geographic scope of trading.

A. ERCs may be used in a nonattainment or maintenance area only if generated in the same nonattainment or maintenance area.

B. ERCs generated inside a modeling domain may be used in the same modeling domain. Trading of ERCs within a modeling domain is subject to the limitations of subparagraph (3)(B)6.A. of this rule.

C. Interstate trading. (*Reserved*)

7. Protocol development and approval. To quantify the amount of ERCs generated and the amount needed for compliance, all sources shall use the following hierarchy as a guide to determine the most desirable emission data to report to the department. If data is not available for an emission estimation method or an emission estimation method is impractical for a source, then the subsequent emission estimation method shall be used in its place:

A. Continuous Emission Monitoring System (CEMS) as specified in 10 CSR 10-6.110;

B. Stack tests as specified in 10 CSR 10-6.110;

C. Material/mass balance;

D. AP-42 (Environmental Protection Agency (EPA) Compilation of Air Pollution Emission Factors) or FIRE (Factor Information and Retrieval System);

E. Other U.S. EPA documents as specified in 10 CSR 10-6.110;

F. Sound engineering calculations;

G. Facilities shall obtain department approval of emission estimation methods other than those listed in subparagraphs (3)(B)7.A.-F. of this rule before using any such method to estimate emissions in the submission of data.

8. ERC use for NSR. All ERCs used to meet NSR offset requirements shall comply with the requirements of state rule 10 CSR 10-6.060 Construction Permits Required.

9. Compliance burden.

A. The ERC user source is responsible for assuring that the generation and use of ERCs comply with this rule.

B. The ERC user source (not the enforcing authority) bears the burden of proving that ERCs used are valid and sufficient and that the ERC use meets all applicable requirements of this rule. The ERC user source is responsible for compliance with its underlying obligations. In the event of enforcement against the user source for non-compliance, it shall not be a defense for the purpose of determining civil liability that the user source relied in good faith upon the generator source's representations.

C. In the event of an invalid ERC, the generator source shall receive a Notice of Violation and the ERC user must find additional ERCs to comply with offset requirements.

10. Sources that emit less than ten (10) tons per year. (*Reserved*)

(D) Banking. Banking credit for emission reductions to use as offsets, at some future time, shall be allowed under the following circumstances:

1. The person requesting banking is the owner or operator of:

A. A new or modified installation who obtains a permit by applying offsets which exceed the requirements of 10 CSR 10-6.060; or

B. An existing installation in an area where offsets are required by the state implementation plan and that voluntarily reduces emissions of the pollutant or a precursor of the pollutant for which the area is classified after the base year used in the state implementation plan;

2. For source operations in the nonattainment areas for which reasonably available control technology (RACT) would be required, but as yet has not been defined, actual emission levels shall be reduced to represent post-RACT levels. The control technology assumed for these calculations shall be mutually agreed upon by the

applicant and the director of the Missouri Department of Natural Resources' Air Pollution Control Program. Only emission reductions beyond the post-RACT emissions levels will be creditable;

3. Credit for emission reductions beyond those that were required by RACT or paragraph (3)(D)2. of this rule at a shutdown installation and that are in excess of those needed to offset a replacement installation can be banked;

4. It shall be a violation of this rule for any person to operate a source operation from which banked credit for emission reductions was obtained so as to emit the pollutant at levels greater than identified in the offset calculation referred to in subparagraph (3)(B)4.C. of this rule, unless the person who banked credit for the reductions, or their transferee, first files a notice with the director of the Missouri Department of Natural Resources' Air Pollution Control Program stating that credit for the reductions or a part of the credit is being withdrawn from the bank, and credit has not previously been withdrawn; and

5. The amount of banked emission reduction credits shall be discounted without compensation to the holder in the applicable source category when new rules requiring emission reductions are adopted by the commission. The amount of discounting of banked emission reduction credits shall be calculated on the same basis as the reductions required for existing sources which are subject to the new rule. A portion of banked credits, equivalent to the anticipated required reductions may be temporarily frozen by the director of the Missouri Department of Natural Resources' Air Pollution Control Program in anticipation of a new rule being adopted by the commission. This paragraph, however, shall not apply to emission reductions, discounted at the time of banking in accordance with paragraph (3)(D)2. of this rule, unless the new rule provides for the replacement of RACT with BACT or another more stringent level of control.

(4) Reporting and Record Keeping.

(B) The Notice and Certification of Generation shall include the following information, submitted on a form supplied by the Missouri Department of Natural Resources:

1. Account identification number;

2. Date generating activity was completed;

3. A brief description of the generation activity;

4. The amount of ERCs generated;

5. Affected emission units;

6. The protocols that were used to calculate and document the ERCs;

7. Information on all the generator source's applicable emission rates;

8. A statement that the reductions were calculated in accordance with paragraph (3)(B)1. of this rule;

9. A statement that the ERCs were not generated in whole or in part from actions prohibited pursuant to paragraph (3)(B)2. of this rule;

10. For each source subject to reporting toxic chemical releases for the Community Right-to-Know provisions under 40 CFR part 372, the estimated amount of hazardous air pollutants, as defined below, emitted to the air as the result of the generation of the ERC.

A. A pollutant shall be reported under this paragraph, only if it is listed both in 40 CFR 372.65 and section 112(b) of the Clean Air Act, and a chemical which the source is reporting or expects to report under 40 CFR part 372 for the calendar year in which the ERC was generated.

B. The requirements in 40 CFR 373.30(b) shall be followed for the notice.

C. The exemptions listed in 40 CFR 372.38 for determining the amount of release to be reported under 40 CFR 372.30 shall also be exemptions for determining the amount emitted under this subsection.

D. The notice shall include:

(I) The name and Chemical Abstracts Service (CAS) number (if applicable) of the chemical reported;

(II) If the chemical identity is claimed trade secret under 40 CFR 372, a generic name for the chemical as reported under 40 CFR 372.85(b)(11);

(III) A mixture component identity if the chemical identity is not known; and

(IV) An estimate of total air emissions, in pounds, for the relevant time period of ERC generation. Releases of less than one thousand (1,000) pounds may be indicated in ranges.

11. Signature of authorized account representative and the signature of an official responsible for the truth, accuracy and completeness of the notice.

(C) The Notice of Intent to Use ERCs shall include the following information submitted on a form supplied by the Missouri Department of Natural Resources:

1. The name of the facility;
2. The emissions unit and the applicable pollutant;
3. Account identification number;
4. The date(s) on which the ERCs were acquired;
5. The amount of ERCs used and the associated serial numbers;
6. The applicable state and federal requirements that the ERCs were used to comply with;
7. The emissions quantification protocols that were used to calculate the amount of ERCs required to demonstrate compliance and documentation for the compliance calculation under paragraph (3)(B)7. of this rule;
8. A statement that due diligence was made to verify that the ERCs were not previously used and not generated as a result of actions prohibited under this regulation or other provisions of law;
9. A statement that the ERCs were not used in a manner prohibited under this regulation or other provisions of law;
10. For each source subject to reporting toxic chemical releases for the Community Right-to-Know provisions under 40 CFR part 372, the estimated amount of hazardous air pollutants emitted to the air as the result of the use of the ERC to meet otherwise applicable requirements. The estimated amount shall include emissions increases and any emission reductions used for ERCs instead of non-ERC compliance with otherwise applicable requirements. The same procedures shall be followed as the similar requirement under the Notice and Certification of Generation; and

11. Signature of authorized account representative and the signature of an official responsible for the truth, accuracy and completeness of the notice.

(D) The Notice of Withdrawal shall include the following information submitted on a form supplied by the Missouri Department of Natural Resources:

1. The name of the facility;
2. The emissions unit and the applicable pollutant;
3. Account identification number;
4. The serial numbers of the ERCs to be withdrawn;
5. The reason for the withdrawal;
6. A copy of the Notice and Certification of Generation submitted by the generator source to the state; and
7. Signature of authorized account representative and the signature of an official responsible for the truth, accuracy and completeness of the notice.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 13—Peace Officer Licenses**

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Public Safety under sections 590.030.2 and 590.030.4, RSMo Supp. 2001, the director amends a rule as follows:

11 CSR 75-13.020 Procedure to Obtain New Peace Officer License **is amended.**

A notice of proposed rulemaking containing text of the proposed amendment was published in the *Missouri Register* on December 2, 2002 (27 MoReg 2202). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 14—Basic Training Centers**

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Public Safety under section 590.060.1, RSMo Supp. 2001, the director amends a rule as follows:

11 CSR 75-14.080 Minimum Requirements for a Basic Training Instructor **is amended.**

A notice of proposed rulemaking containing text of the proposed amendment was published in the *Missouri Register* on December 2, 2002 (27 MoReg 2202-2203). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 75—Peace Officer Standards and Training
Program
Chapter 15—Continuing Education**

ORDER OF RULEMAKING

By the authority vested in the director of the Department of Public Safety under section 590.050.2, RSMo Supp. 2001, the director amends a rule as follows:

11 CSR 75-15.030 Procedure to Obtain a Continuing Education Provider License **is amended.**

A notice of proposed rulemaking containing text of the proposed amendment was published in the *Missouri Register* on December 2, 2002 (27 MoReg 2203). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 3—State Sales Tax**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 144.270, RSMo 2000, the director rescinds a rule as follows:

12 CSR 10-3.124 Coins and Bullion is rescinded.

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on November 15, 2002 (27 MoReg 2063–2064). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 110—Sales/Use Tax—Exemptions**

ORDER OF RULEMAKING

By the authority vested in the director of revenue under section 144.270, RSMo 2000, the director amends a rule as follows:

**12 CSR 10-110.950 Letters of Exemption Issued by the
Department of Revenue is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2002 (27 MoReg 2064–2065). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 10—Nursing Home Program**

ORDER OF RULEMAKING

By the authority vested in the Division of Medical Services under sections 208.153, 208.159 and 208.201, RSMo 2000, the director amends a rule as follows:

13 CSR 70-10.150 Enhancement Pools is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 15, 2002 (27 MoReg 2069–2071). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 19—DEPARTMENT OF HEALTH AND
SENIOR SERVICES
Division 10—Office of the Director
Chapter 5—Procedures for the Collection and
Submission of Data to Monitor Health Maintenance
Organizations**

ORDER OF RULEMAKING

By the authority vested in the Missouri Department of Health and Senior Services under section 192.068, RSMo 2000, the department amends a rule as follows:

19 CSR 10-5.010 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on November 1, 2002 (27 MoReg 1976–1988). There are changes in the text of the proposed amendment, so it is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: Comments were received from Blue Cross Blue Shield of Missouri (BCBS-MO) and from Missouri Department of Health and Senior Services, Chronic Disease Control.

COMMENT: Comments were received from BCBS-MO (dba BlueChoice) that the retirement of Beta Blocker Treatment after Heart Attack will have little impact on NCQA accredited managed care plans. This measure is one of ten HEDIS measures required by NCQA to obtain and maintain an “Excellent” accreditation level.

RESPONSE: The Beta Blocker Treatment After Heart Attack (BBTAHA) is not being retired; rather it is part of the rotation schedule stipulated by NCQA. The deletion of BBTAHA from the DHSS rule does not affect the accreditation standards sought by the managed care organizations. If the MCO’s choose not to submit BBTAHA to NCQA, their accreditation will not be affected.

COMMENT: Comments were received from BCBS-MO (dba BlueChoice) stating that the proposed addition of Controlling High Blood Pressure (CHBP) indicator would have a negative impact on their budget, both financial and human resources for HEDIS 2003. This measure can only be calculated using hybrid methodology, requiring an additional 452 chart audits (411 sample plus 10% oversample) at an estimated cost of five thousand dollars (\$5,000) for chart audits plus additional funding for IT programming and for administrative coordination and oversight. CHBP is not required for NCQA accreditation and will need to be calculated solely to meet DHSS reporting requirements. BCBS-MO is asking that the DHSS not add this measure to its 2003 filing requirements.

RESPONSE: Controlling High Blood Pressure is a rotated HEDIS measure, however it is not required for NCQA accreditation. However, most commercial MCO plans in the state are not accredited by NCQA and, as such, are not required to report any HEDIS measures, except by DHSS mandate.

The DHSS agrees that an additional cost could be incurred to the MCO by mandating it for the state filing because the measure requires use of the more expensive hybrid process. However, this is not the first time CHBP has appeared in the rule. Previously, in the 2001 filing cycle, the state average for CHBP was forty-five percent (45%) with MCO results ranging from nineteen percent to sixty-two percent (19%–62%). BlueChoice received a rating of High at fifty-six percent (56%). At that time, BCBS-MO did not challenge the requirement for CHBP measurements.

The DHSS believes that controlling high blood pressure is a major public health concern with respect to preventing many other diseases such as congestive heart failure, diabetes, coronary arterial risk development, hypertension, etc. The nature of managed care makes it uniquely positioned to institute programs to prevent hypertension. As seen from the above percentages, there is room for considerable improvement in controlling high blood pressure of plan members by even the best of the managed care plans in the state. Unless the DHSS requires reporting of these percentages, it is not clear that the typical managed care plan in the state will continue to work with its network physicians to improve anti-hypertension programs.

COMMENT: Comments were received from DHSS (Chronic Disease Control) proposed the inclusion of a question in Table D (Access to Care). The question is “Do the managed care organizations promote the use of NAEPP asthma practice guidelines among providers?”

The National Heart, Lung and Blood Institute have established clinical practice guidelines for the treatment of asthma through the National Asthma Education Prevention Program (NAEPP). The

guidelines provide state-of-the-art clinical practice guidelines for diagnosing and managing asthma and incorporate the most recent scientific information available on the care of patients with asthma. The guidelines provide information on treating asthma at all severity levels and stresses both clinical and self-management strategies.

RESPONSE AND EXPLANATION OF CHANGE: The DHSS concurs with this recommendation. Asthma is a major health care concern and managed care organizations should promote the use of established guidelines with their providers. The proposed question goes directly to the area of service by the MCO's. The question to be added to Table D II-Question 2C is: "Do managed care organizations promote the use of the National Asthma Education Prevention Program (NAEPP) among providers?"

COMMENT: Comments were received from BCBS-MO that the risk factors for asthma, breast, cervical, ovarian and colorectal cancer, diabetes, HIV, sickle cell disorders and lead poisoning are not identifiable through administrative data. For example, risk factors associated with developing asthma include cigarette smoking and a positive family history, neither of which can be captured from administrative data analysis.

Screening patients for risk factors is the responsibility of the Primary Care Physician (PCP). The role of the Managed Care Plan in this process is to promote appropriate screening activity through the dissemination of clinical guidelines and to develop a benefit structure to support use of screening tests.

RESPONSE AND EXPLANATION OF CHANGE: The DHSS agrees with the comments expressed by BCBS-MO. All health measures (Table D II-Question 1) with the exception of Breast Cancer, Cervical Cancer and Other will be shown as Not Applicable (NA) for both Screening Mechanisms and Education for Persons-at-risk. The DHSS is in the process of developing an access to care question for the future that better identifies how MCOs are working with their network physicians to screen for these conditions.

19 CSR 10-5.010 Monitoring Health Maintenance Organizations Definitions

Table D

Managed Health Care Services

File Specifications

Responses to the survey items in Table D must be submitted electronically, in a data file format specified by the Department.

Table D must be completed for each managed care product line (Commercial, Medicaid, or Medicare) offered by each licensed health care plan. Responses should be based on activity or status during the reporting period, within each product line (payer). Survey questions in Table D shall apply, except where otherwise noted, only to fully insured (ERISA exempt) enrollments.

Table D
Managed Health Care Services
Reporting Period: CY 2002

I. HEALTH PLAN INFORMATION

Instructions: Submit one set of Table D information, Parts I and II, for each product line (i.e. type of payor) offered by your organization.

1.) Product Line (CHECK ONE): () Commercial () Medicare () Medicaid

2.) Missouri Department of Insurance Licensed Plan Name:

_____ Dba (if applicable): _____

3.) Extended NAIC Identification Number (7-digit): _____

4.) Name as marketed to your members (for Consumer's Guide display purposes):

5.) List the following for each of your products within this product line:

Marketed			-----Phone Numbers-----
a.) <u>Product Name</u>	b.) <u>HMO/POS</u>	c.) <u>Customer Service</u>	d.) <u>RN Hotline</u>
_____	_____	_____	_____
_____	_____	_____	_____

6.) Through what organization was your managed care organization accredited as of:
December 31, 2002?

Accrediting organization: () NCQA () URAC () JCAHO () None
Level of Accreditation: _____

7.) Managed Care Organization Contact Person for Table D Information:

a.) Name: _____ b.) Title: _____
c.) Phone: _____ d.) Fax: _____ e.) E-mail: _____

**Table D
Managed Health Care Services
Reporting Period: CY 2002**

II. HEALTH PLAN SERVICES

1.) Please indicate for each of the following high risk conditions/diseases, if your managed care plan (A) has screening mechanisms, (B) provides case management, (C) provides specific educational materials to persons-at-risk, and (D) distributes educational material for all plan enrollees. (CHECK ALL THAT APPLY. SEE NOTE BELOW.)

<u>High Risk Conditions/Diseases</u>	<u>(A) Screening Mechanisms</u>	<u>(B) Case Management</u>	<u>(C) Education for Persons-at-risk</u>	<u>(D) Education for All Plan Enrollees</u>
Asthma	(NA)	()	(NA)	()
Stroke/Cardiovascular Disease	(NA)	()	(NA)	()
Breast Cancer	()	()	()	()
Cervical Cancer	()	()	()	()
Ovarian Cancer	(NA)	()	(NA)	()
Colorectal Cancer	(NA)	()	(NA)	()
Sickle Cell Disorders	(NA)	()	(NA)	()
Congestive Heart Failure (CHF)	(NA)	()	(NA)	()
Chronic Obstructive Pulmonary Disease (COPD)	(NA)	()	(NA)	()
Diabetes	(NA)	()	(NA)	()
Depression	(NA)	()	(NA)	()
HIV	(NA)	()	(NA)	()
High Risk Pregnancy	(NA)	()	(NA)	()
Obesity	(NA)	()	(NA)	()
Lead Poisoning	(NA)	()	(NA)	()
Chlamydia: Females	(NA)	()	(NA)	()
High Blood Pressure	(NA)	()	(NA)	()
Alcohol/Substance Abuse:				
Adolescents	(NA)	()	(NA)	()
Pregnant Women	(NA)	()	(NA)	()
Tobacco Use	(NA)	()	(NA)	()
Other _____	()	()	()	()

(PLEASE SPECIFY)

Note: Screening Mechanisms is a protocol by which the Managed Care Organization identifies through administrative data, members at risk for certain diseases or conditions, utilizing clinical guidelines, and then formally conveys to the network PCPs or personal physician to proactively screen these at-risk patients in their daily practice.

Case management is a protocol where case managers work with providers and physicians to coordinate the medical care that patients with complex or chronic illnesses need to receive. Case managers help patients take care of themselves and make sure they get the right specialists, equipment and medications.

Education strategies for all plan enrollees may include but are not limited to newsletters, periodicals, direct mailings and similar types of media campaigns.

- 2.) Please indicate if your managed care plan provides any of the following:
- a.) Routine distribution of educational materials on general health promotion, disease prevention and wellness () YES () NO
 - b.) Distribution of pre- and post-surgical information to enrollees () YES () NO
 - c.) Promotion of the use of the National Asthma Education Prevention Program (NAEPP) among providers? () YES () NO

Note: The term *reminder/recall* in Questions 3a -- 3b refers to notices intended to insure timely scheduling of the specific preventive screening/test or service indicated. General education materials or notices tied to anniversary dates, such as birthdays or enrollment dates, do not meet this definition.

3a.) **Commercial or Medicaid only** (If completing for a Medicare plan, skip to Question 3b)

Do you send reminder/recall letters and/or make telephone calls from your managed care plan office to your members to ensure usage of the following preventive services?

- Mammograms () YES () NO
- Immunizations () YES () NO
- Pap smears () YES () NO
- Diabetic Screens/Tests () YES () NO

3b.) **Medicare only**

Do you send reminder/recall letters and/or make telephone calls from your managed care plan office to your members to ensure usage of the following preventive services?

- Mammograms () YES () NO
- Immunizations () YES () NO
- Well-woman checks () YES () NO
- Diabetic Screens/Tests () YES () NO

- 4.) **Commercial only:** During the reporting period, did your plan manage the following health services for your ASO group contracts? For each of the health services listed below, please indicate if it was elected as a covered benefit in all the ASO contracts with your plan, in some of the ASO contracts, or in none of the ASO contracts. (CHECK ONE COLUMN ONLY)

Selected Covered Benefits:

	<u>ASO Contracts</u>		
	<u>All</u>	<u>Some</u>	<u>None of the</u>
	<u>Contracts</u>	<u>Contracts</u>	<u>Contracts</u>

- | | | | |
|--------------------|-----|-----|-----|
| Immunizations..... | () | () | () |
| Mammograms | () | () | () |
| Pap Smears..... | () | () | () |

5.) During the reporting period, did your plan provide coverage to your non-ASO members for the following health benefits? Please indicate if the benefit item was offered as standard coverage for all non-ASO products within the product line (commercial, Medicaid or Medicare), as standard coverage only for some non-ASO products in the product line, offered only by rider clause (employer option), or not covered at all. (CHECK ONLY ONE FOR EACH BENEFIT LISTED)

	<u>Non-ASO Products Only</u>			
	<u>All Products</u>	<u>Some Products</u>	<u>Offered only by rider clause</u>	<u>Not Offered</u>
Rx coverage of:				
Prenatal vitamins, including folic acid.....	()	()	()	()
Non-Morbid Obesity:				
Prescriptions.....	()	()	()	()
Dietary Consultations...	()	()	()	()
Surgical Procedures.....	()	()	()	()
Contraceptives:				
Birth control pills.....	()	()	()	()
IUDs.....	()	()	()	()
Norplant.....	()	()	()	()
Dcpo Provera.....	()	()	()	()
Immunizations:				
Hepatitis A.....	()	()	()	()
Hepatitis B.....	()	()	()	()
Varivax (chicken pox)...	()	()	()	()
Annual eye exam for refractive errors.....	()	()	()	()
Diabetic supplies..... (strips, lancets, etc.)	()	()	()	()
Insulin pumps.....	()	()	()	()
Stem cell rescue for:				
Neuroblastoma.....	()	()	()	()
Breast cancer.....	()	()	()	()
Access to chiropractic services	()	()	()	()
Psychotherapy services				
Individual.....	()	()	()	()
Group.....	()	()	()	()
Family.....	()	()	()	()
Marital.....	()	()	()	()
Substance abuse services:				
Inpatient/residential.....	()	()	()	()
Outpt./partial hospitalization	()	()	()	()
Unrestricted annual flu shots	()	()	()	()
Acupuncture.....	()	()	()	()

5.) During the reporting period, did your plan provide coverage to your non-ASO members for the following health benefits? Please indicate if the benefit item was offered as standard coverage for all non-ASO products within the product line (commercial, Medicaid or Medicare), as standard coverage only for some non-ASO products in the product line, offered only by rider clause (employer option), or not covered at all. (CHECK ONLY ONE FOR EACH BENEFIT LISTED)

	<u>Non-ASO Products Only</u>			
	<u>All Products</u>	<u>Some Products</u>	<u>Offered only by rider clause</u>	<u>Not Offered</u>
Rx coverage of:				
Prenatal vitamins, including folic acid.....	()	()	()	()
Non-Morbid Obesity:				
Prescriptions.....	()	()	()	()
Dietary Consultations...	()	()	()	()
Surgical Procedures.....	()	()	()	()
Contraceptives:				
Birth control pills.....	()	()	()	()
IUDs.....	()	()	()	()
Norplant.....	()	()	()	()
Depo Provera.....	()	()	()	()
Immunizations:				
Hepatitis A.....	()	()	()	()
Hepatitis B.....	()	()	()	()
Varivax (chicken pox)...	()	()	()	()
Annual eye exam for refractive errors.....	()	()	()	()
Diabetic supplies..... (strips, lancets, etc.)	()	()	()	()
Insulin pumps.....	()	()	()	()
Stem cell rescue for:				
Neuroblastoma.....	()	()	()	()
Breast cancer.....	()	()	()	()
Access to chiropractic services	()	()	()	()
Psychotherapy services				
Individual.....	()	()	()	()
Group.....	()	()	()	()
Family.....	()	()	()	()
Marital.....	()	()	()	()
Substance abuse services:				
Inpatient/residential.....	()	()	()	()
Outpt./partial hospitalization	()	()	()	()
Unrestricted annual flu shots	()	()	()	()
Acupuncture.....	()	()	()	()

Smoking cessation				
Classes.....	()	()	()	()
Medications/patches....	()	()	()	()
Conduct wellness surveys*	()	()	()	()

*A wellness survey is a questionnaire on health behaviors. It does not refer to a physical exam.

6.) For each preventive service listed below, please indicate (A) if your plan provided physicians routine status reports on the delivery of these services to their panel members and (B) if your plan sent comparative information to the physicians, during the reporting year. Following each response, enter a brief description of the report(s) or information that you sent.

	(CHECK IF YES)		(CHECK IF YES)	
	(A) Plan Provided Reports	Description of Report(s)	(B) Plan Sent Comparative Data	Description of Report(s)
Childhood Immunizations.....	()	_____	()	_____
Adolescent Immunizations.....	()	_____	()	_____
Breast Cancer Screenings.....	()	_____	()	_____
Pap Smears.....	()	_____	()	_____
Lead Screenings:				
12 and 24 months.....	()	_____	()	_____
Under 6 if no prior blood test.....	()	_____	()	_____
Cholesterol Management after Acute Cardiovascular Event: LDL-C Screenings	()	_____	()	_____
Beta Blocker Treatment After Heart Attack.....	()	_____	()	_____
Comprehensive Diabetic Care:				
Hemoglobin Testing.....	()	_____	()	_____
Retinal Disease Eye Exam.....	()	_____	()	_____
LDL-C (Lipids) Testing	()	_____	()	_____
Nephropathy Screenings.....	()	_____	()	_____
Annual Flu Shots for Older Adults.....	()	_____	()	_____
Tobacco Cessation Counseling.....	()	_____	()	_____
Other (Please specify)_____	()	_____	()	_____

7.) Does your plan routinely conduct continuing education with your providers to improve their knowledge on current clinical practice recommendations?

() YES () NO

- 9.) The following questions pertain to your managed care product Internet site:
- a) Does the Internet site for your managed care products provide a lookup reference to a list of your network physicians or other providers? YES ____ NO ____ (if NO, skip to Question 10)
- b) Does your provider listing contain the following information?
- i) Name: YES ____ NO ____;
↳ Able to search on this criteria? YES ____ NO ____
- ii) Specialty: YES ____ NO ____;
↳ Able to search on this criteria? YES ____ NO ____
- iii) By product: YES ____ NO ____;
↳ Able to search on this criteria? YES ____ NO ____
- iv) County: YES ____ NO ____;
↳ Able to search on this criteria? YES ____ NO ____
- v) City: YES ____ NO ____;
↳ Able to search on this criteria? YES ____ NO ____
- vi) Zip Code: YES ____ NO ____;
↳ Able to search on this criteria? YES ____ NO ____
- vii) Hospital Affiliations: YES ____ NO ____
↳ Able to search on this criteria? YES ____ NO ____
- c) How often is provider information updated?
- i) Weekly: YES ____ NO ____
- ii) Monthly: YES ____ NO ____
- iii) Semi-Annually: YES ____ NO ____
- iv) Annually: YES ____ NO ____
- v) Other (Please specify) _____
- vi) Is the date of the update displayed?
YES ____ NO ____
- d) Is the provider information available to:
- i) Plan Members? YES ____ NO ____
- ii) Prospective Members (Without the need to register on the site)? YES ____ NO ____

10.) For each of the practitioner categories below, indicate the number you had in your plan network during the reporting year and the number of that total which your MCO verified, within the past two years, as being board certified where applicable.

	<u>Number of Practitioners</u>	<u>Number Who Are Board Certified</u>
a.) Primary Care Physicians (excluding OB/GYNs)	_____	_____
b.) Medical/Surgical Specialists (excluding OB/GYNs)	_____	_____
c.) OB/GYNs	_____	_____
d.) Chiropractors	_____	_____
e.) Mental Health Providers	_____	_____
f.) General Dentists	_____	_____
g.) Advanced Practice Nurse	_____	_____

**Title 20—DEPARTMENT OF INSURANCE
Division 100—Division of Consumer Affairs
Chapter 6—Privacy of Consumer Information**

ORDER OF RULEMAKING

By the authority vested in the director of the Missouri Department of Insurance under section 374.045, RSMo 2000, the director adopts a rule as follows:

20 CSR 100-6.110 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 1, 2002 (27 MoReg 1988-1989). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Insurance received six (6) comments on the proposed rule.

COMMENT: It was suggested that the proposed regulation not refer to unfair trade practices in the event the regulation was violated.

RESPONSE: The proposed rule does not state that a violation of the provisions of the proposed rule constitutes a violation of the state's unfair trade practices statutes. Therefore, no changes corresponding to this comment will be made.

COMMENT: There were three (3) comments that suggested that the "Purpose" clause of the proposed rule delete the statement that the proposed rule applies to nonpublic personal health information, in that it falls outside of the scope of the Gramm-Leach-Bliley Act.

RESPONSE AND EXPLANATION OF CHANGE: The Department does not agree that the language of the "Purpose" clause exceeds the scope of the Gramm-Leach-Bliley Act. However, it has changed the "Purpose" clause of this proposed rule so that it corresponds to that of 20 CSR 100-6.100 Privacy of Financial Information.

COMMENT: It was suggested that the department withdraw the proposed rule and allow each insurer to safeguard the information as they deem appropriate.

RESPONSE: Because the department believes the proposed rule is necessary to protect consumers, it is not going to withdraw the proposed rule.

COMMENT: It was suggested that the definition of "licensee" should add an exception for reinsurers providing stop loss and excess loss insurance as well as those providing indemnity reinsurance, and that the definition of "service providers" in subsection (1)(E) of the proposed rule is overbroad, and should, therefore, make an exception or include an exclusion for attorneys providing legal representation to licensees.

RESPONSE: The department does not believe any exceptions for reinsurers providing stop loss and excess loss insurance, for producers providing indemnity reinsurance and for attorneys providing legal representation to licensees is necessary. The definitions for "licensee" and "service providers" are sufficiently clear. Therefore, no changes corresponding to this comment will be made.

COMMENT: It was suggested that the proposed rule be changed to offer greater protection to insurance claimants against "overly broad" consent forms and the use and referral of information obtained with those forms.

RESPONSE: The proposed rule does not address insurers' use of consent forms. Therefore, no changes corresponding to this comment will be made.

COMMENT: It was suggested that sections (5) through (8) should be deleted, since those sections serve as illustrative examples only, and that section (7) either be deleted in its entirety or to retain subsection (7)(A) and delete subsection (7)(B), in that the department should not issue a mandate to or requirement for licensees (subsection (7)(B)) "in the guise of an example." If the foregoing proposals for changes are made to the proposed rule, it was suggested that the definition of "service provider" be deleted as it would no longer be necessary.

RESPONSE: The department believes that sections (5) through (8) of the proposed rule are necessary to help licensees interpret and comply with the requirements of the proposed rule and underlying law. Subsection (7)(B) is not meant to be an absolute requirement for licensees, but an example of something the licensee may require its service providers to do. It is a choice for the licensee to make, not a mandate. For these reasons, no changes corresponding to this comment will be made.

EXPLANATION OF ADDITIONAL CHANGE: Because of the expected effective date of the proposed rule, the Compliance Date set forth in section (9) of the proposed rule will be extended.

20 CSR 100-6.110 Standards for Safeguarding Customer Information

PURPOSE: This rule establishes standards for developing and implementing administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of customer information, pursuant to sections 501, 505(b), and 507 of the Gramm-Leach-Bliley Act, codified at 15 U.S.C. 6801, 6805(b), and 6807, and as authorized by section 362.422, RSMo Supp. 2001. This rule requires that the safeguards established pursuant to this rule shall apply to nonpublic personal information and nonpublic personal financial information.

(4) Examples of Methods of Development and Implementation. The actions and procedures described in sections (5) through (8) of this regulation are examples of methods of implementation of the requirements of sections (2) and (3) of this regulation. These examples are non-exclusive illustrations of actions and procedures that licensees may follow to implement sections (2) and (3) of this regulation.

(9) Compliance Date. Each licensee shall establish and implement an information security program, including appropriate policies and systems pursuant to this regulation by June 1, 2003.

This section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs and other items required to be published in the *Missouri Register* by law.

**Title 5—DEPARTMENT OF ELEMENTARY AND
SECONDARY EDUCATION
Division 80—Teacher Quality and Urban Education
Chapter 800—Educator Certification**

IN ADDITION

The original text for this rule was filed on April 26, 2000 and published in the *Missouri Register* on June 1, 2000 (25 MoReg 1450). The last two sections were meant to be subsection (2)(G) and section (3). They are corrected below as they now appear in the *Code of State Regulations* as published February 28, 2003.

5 CSR 80-800.370 Fees

(2) The following fees are established by the State Board of Education (the board) and are payable in the form of a cashier's check or money order to the Treasurer, State of Missouri:

(G) Missouri Open Records Check—Amount determined by the Missouri State Highway Patrol.

(3) All fees are nonrefundable.

*[Title 13—DEPARTMENT OF SOCIAL SERVICES]
Title 19—DEPARTMENT OF HEALTH AND SENIOR
SERVICES
Division 73—Missouri Board of Nursing Home
Administrators
Chapter 2—General Rules*

IN ADDITION

As a result of the Board of Nursing Home Administrators transferring from the Department of Social Services to the Department of Health and Senior Services, the following rules are transferred to the Department of Health and Senior Services.

[13] 19 CSR 73-2.010 Definitions
[13] 19 CSR 73-2.070 Examination
[13] 19 CSR 73-2.100 Restoration and Rehabilitation of Suspended/
Revoked Licenses
[13] 19 CSR 73-2.105 Disciplinary Proceedings
[13] 19 CSR 73-2.110 Display of License
[13] 19 CSR 73-2.120 Duplicate License
[13] 19 CSR 73-2.130 Notice of Change of Address

Title 20—DEPARTMENT OF INSURANCE

IN ADDITION

Pursuant to section 538.210, RSMo regarding the medical malpractice award limit, the director of insurance is required to calculate the new limitation for non-economic damages in medical malpractice awards.

Using the Implicit Price Deflator (IPD) for Personal Consumption Expenditures (PCE), as required by section 538.210, RSMo, the new limit was established by the following calculations:

Indexes Based on 1996 Dollars
Fourth Quarter 2002 IPD Index 111.89
Fourth Quarter 2001 IPD Index 109.84

New Limit = 2002 Limit × (2002 Index/2001 Index)
557,254 = 547,044 × (1.1189/1.0984)

2003 Non-Economic Damages Limit (Rounded) = \$557,000