

RULE TRANSMITTAL (PAGE 1)

MATT BLUNT

**Secretary of State
Administrative Rules Division
RULE TRANSMITTAL**

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SECRETARY OF STATE
ADMINISTRATIVE RULES

A "SEPARATE" rule transmittal sheet **MUST** be used for EACH individual rulemaking.

A. Rule Number 4 CSR 240-3.13.055
 Diskette File Name Rule 240-13.055
 Name of person to call with questions about this rule:
 Content Tim Schwarz Phone 573-751-5239 FAX 573-751-9285
 Data entry Sharon Wiles Phone 573-751-4873 FAX Same as above
 Email address tim.schwarz@psc.mo.gov
 Interagency mailing address Governor Office Building, 200 Madison St., 8th Floor, Jefferson City, MO
 Statutory Authority Sections 386.250, 393.130, and 393.140 Current RSMo date 2000
 Date filed with the Joint Committee on Administrative Rules Exempt per Sections 536.024 and 536.037, RSMo 2000, and Executive Order No. 97-97 (June 27, 1997)

B. CHECK, IF INCLUDED:

- | | |
|----------------------------------------------------------------|-----------------------------------------------------------------------|
| <input checked="" type="checkbox"/> This transmittal completed | <input type="checkbox"/> Incorporation by reference materials, if any |
| <input checked="" type="checkbox"/> Cover letter | <input type="checkbox"/> Authority with history of the rule |
| <input type="checkbox"/> Affidavit | <input type="checkbox"/> Public cost |
| <input type="checkbox"/> Forms, number of pages ____ | <input type="checkbox"/> Private cost |
| <input type="checkbox"/> Fiscal notes | <input type="checkbox"/> Hearing and comment period |

C. RULEMAKING ACTION TO BE TAKEN

- ☐ Emergency rulemaking, (check one) ☐ rule ☐ amendment ☐ rescission ☐ termination
MUST include effective date
- ☒ Proposed Rulemaking (check one) ☐ rule ☒ amendment ☐ rescission
☐ Order of Rulemaking (check one) ☐ rule ☐ amendment ☐ rescission ☐ termination
MUST complete page 2 of this transmittal
- ☐ Withdrawal (check one) ☐ rule ☐ amendment ☐ rescission ☐ emergency
☐ Rule action notice
☐ In addition
☐ Rule under consideration

D. SPECIFIC INSTRUCTIONS: Please indicate any special instructions (e.g., publication date preference, identify material to be incorporated by reference, or forms included herein).

Please Publish in the next available issue of the
Missouri Register.

JCAR Stamp

E. ORDER OF RULEMAKING: Rule Number _____

1a. Effective Date for the Order

☐ Statutory 30 days

Specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?

☐ YES

☐ NO

1c. If the answer is YES, please complete section F. If the answer is NO, **STOP** here.

- F. Please provide a complete list of the changes in the rule text for the order of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. This is not a reprinting of your order, but an explanation of what sections, subsections, etc. have been changed since the original proposed rule was filed.

(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer text. DO NOT delete the header, however.)



Commissioners
STEVE GAW
Chair
CONNIE MURRAY
ROBERT M. CLAYTON III

Missouri Public Service Commission

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WESS A. HENDERSON
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Director, Utility Services
DONNA M. PRENGER
Director, Administration
DALE HARDY ROBERTS
Secretary/Chief Regulatory Law
Judge
DANA K. JOYCE
General Counsel

April 9, 2004

Matt Blunt
Secretary of State
Administrative Rules Division
600 West Main
Jefferson City, Missouri

HAND DELIVER

Re: 4 CSR 240-13.055 Cold Weather Maintenance of Service: Provision of Residential Utility Service
During Cold Weather

CERTIFICATION OF PROPOSED AMENDMENT

Dear Secretary Blunt,

I do hereby certify that the attached is an accurate and complete copy of the proposed amendment lawfully submitted by the Missouri Public Service Commission on this 9th day of April 2004.

The Missouri Public Service Commission has determined, and hereby certifies, that this proposed amendment will not have an economic impact on small business. The Missouri Public Service Commission also certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to Section 536.017, RSMo and that the proposed amendment does not constitute a taking of real property under relevant state and federal law.

Statutory Authority: sections 386.250, 393.130 and 393.140

If there are any questions regarding the content of this order of rulemaking, please contact:

Tim Schwarz
200 Madison
Jefferson City, MO 65102
Phone (573) 751-5239
Email: tim.schwarz@psc.mo.gov

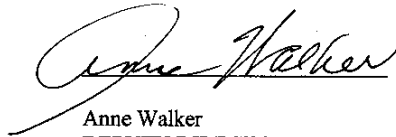
Sincerely yours,

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission

AFFIDAVIT

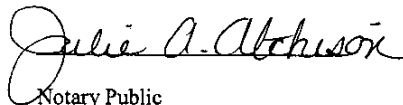
STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Anne Walker, Deputy Director of the Department of Economic Development, first being duly sworn on my oath state that it is my opinion that the cost of **Proposed Amendments to Rule 4 CSR 240 – 13.055 – Cold Weather Maintenance of Service: Provision of Residential Utility Service during Cold Weather** is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

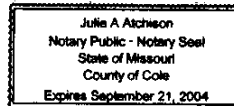


Anne Walker
DEPUTY DIRECTOR
Department of Economic Development

Subscribed and sworn to before me this 2nd day of April, 2004. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on September 21, 2004



Notary Public



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

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SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED AMENDMENT

4 CSR 240-13.055 Cold Weather Maintenance of Service: Provision of Residential Heat-Related Utility Service During Cold Weather – The Commission proposes to eliminate an unneeded reference to the states Utilicare program; add a provision dealing with disconnection notices; transfer of service; defaults on pay agreements; and other changes that may be submitted in comments.

PURPOSE: The changes in this amendment require that disconnection of service notices only be issued to customers where a real intent to disconnect exist, that customers who move from one residence to another within the same utility service territory not be treated as new customers, that customers who pay their payment agreement amount before disconnection can continue to be on a deferred payment plan and that customers who break a payment agreement are eligible for payment plans under the cold weather rule if their last default on a payment agreement was three (3) or more years ago.

(1) The following definitions shall apply in this rule:

(A) Energy Crisis Intervention Program (ECIP) means the federal ECIP administered by the Missouri Division of Family Services under section 660.100, RSMo;

(B) Heat-related utility service means any gas or electric service that is necessary to the proper function and operation of a customer's heating equipment;

(C) Low Income Home Energy Assistance Program (LIHEAP) means the federal LIHEAP administered by the Missouri Division of Family Services under section 660.110, RSMo; **and**

(D) Registered elderly or handicapped customer means one who is sixty (60) years old and above, or is handicapped to the extent that s/he is unable to leave the premises without assistance and who files with the utility a form approved by the commission attesting to the fact that s/he meets these qualifications and which also lists an agency or person the utility shall contact as required in this rule. *[; and]*

[(E) Utilicare means the state program of energy assistance established by section 660.122, RSMo.]

(4) A utility may not threaten to disconnect service when it has no present intent to disconnect service or when actual disconnection is prohibited under this rule. Notice of the intent to disconnect shall be used only as a warning that service will in fact be disconnected in accordance with the procedures set forth in this rule, unless the customer or occupant remedies the situation which gave rise to the enforcement efforts of the utility.

(5[4]) Weather Provisions. Discontinuance of gas and electric service to all residential users, including all residential tenants of apartment buildings, for nonpayment of bills where gas or electricity is used as the source of space heating or to control or operate the only space heating equipment at the residence is prohibited—

(A) On any day when the National Weather Service local forecast between 6:00 a.m. to 9:00 a.m., for the following twenty-four (24) hours predicts that the temperature will drop below thirty degrees Fahrenheit (30 F); and

(B) On any day when utility personnel will not be available to reconnect utility service during the immediately succeeding day(s) (Period of Unavailability) and the National Weather Service local forecast between 6:00 a.m. to 9:00 a.m. predicts that the temperature during the Period of Unavailability will drop below thirty degrees Fahrenheit (30 F).

(C) Nothing in this section shall prohibit a utility from establishing a higher temperature threshold below which it will not discontinue utility service.

(6/5) Discontinuance of Service. From November 1 through March 31, a utility may not discontinue heat-related residential utility service due to nonpayment of a delinquent bill or account provided—

(A) The customer contacts the utility and states his/her inability to pay in full;

(B) The customer applies for financial assistance in paying his/her heat-related utility bill from any federal, state, local or other heating payment fund program for which s/he may be eligible;

(C) The utility receives an initial payment and the customer enters into a payment agreement both of which are in compliance with section (10/8) of this rule;

(D) The customer complies with the utility's requests for information regarding the customer's monthly or annual income; and

(E) There is no other lawful reason for discontinuance of utility service.

(7) Whenever a residential customer, whose service is paid in full or under a payment agreement that they have not broken, moves to another residence within the territory served by a utility, the request for like service at the new residence shall not be considered an application for new service for purposes of this rule. Such service shall be provided at the new residence and shall be considered a continuation of the prior service. A utility shall not have the right to accelerate collection or to terminate service, or to change the terms of service to any customer by virtue of the change in the customer's residence.

(8/6) Deposit Provisions. A utility shall not assess a new deposit or bill deposits that were previously assessed during or after the period of this rule to those customers who enter into a payment agreement and make timely payments in accordance with this rule.

(9/7) Reconnection Provisions. If a utility has discontinued heat-related utility service to a residential customer due to nonpayment of a delinquent account, the utility, from November 1 through March 31, shall reconnect service to that customer without requiring a deposit; provided—

(A) The customer contacts the utility, requests the utility to reconnect service and states an inability to pay in full;

(B) The customer applies for financial assistance in paying his/her heat-related utility bill from any federal, state, local or other heating payment fund program for which s/he may be eligible;

(C) The utility receives an initial payment and the customer enters into a payment agreement both of which are in compliance with section (10/8) of this rule;

(D) The customer complies with the requests of the utility for information regarding the customer's monthly or annual income;

(E) None of the amount owed is an amount due as a result of unauthorized interference, diversion or use of the utility's service, and the customer has not engaged in such activity since last receiving service; and

(F) There is no other lawful reason for continued refusal to provide utility service.

(10/8/) Payment Agreements. The payment agreement for service under this rule shall comply with the following:

(A) A pledge of an amount equal to any payment required by this section by the agency which administers LIHEAP [*Utillacare*] or ECIP, or a combination of these, shall be deemed to be the payment required. The utility shall confirm in writing the terms of any payment agreement under this rule, unless the extension granted the customer does not exceed two (2) weeks.

(B) Payment Calculations.

1. The utility shall first offer a twelve (12)-month budget plan which is designed to cover the total of all preexisting arrears, current bills and the utility's estimate of the ensuing bills.

2. If the customer states an inability to pay the budget plan amount, the utility and the customer may upon mutual agreement enter into a payment agreement which allows payment of preexisting arrears over a reasonable period in excess of twelve (12) months. In determining a reasonable period of time, the utility and the customer shall consider the amount of the arrears, the time over which it developed, the reasons why it developed, the customer's payment history and the customer's ability to pay.

3. A utility shall permit a customer to enter into a payment agreement to cover the current bill plus arrearages in fewer than twelve (12) months if requested by the customer.

4. The company may revise the required payment in accordance with its budget or levelized payment plan.

5. If a customer defaults on a deferred payment agreement but has not yet had service discontinued by the utility, the utility shall permit such customer to be reinstated on the deferred payment agreement if the customer pays in full the amounts that should have been paid up to that date pursuant to the original payment agreement (including any amounts for current usage which have become past due). A utility shall be obliged to permit such reinstatement only once during the course of a deferred payment agreement.

(C) Initial Payments.

1. For a customer who has not defaulted on a payment plan under the cold weather rule **within the last three (3) or more years**, the initial payment shall be the amount of the monthly payment calculated in subsection (10/8/)(B) of this rule.

2. For a customer who has defaulted on a payment plan under the cold weather rule **within the last three (3) years**, the initial payment shall be an amount equal to the total of the delinquent installments, unless the utility and customer agree to a lesser amount.

(11/9/) If a utility refuses to provide service pursuant to this rule and the reason for refusal of service involves unauthorized interference, diversion or use of the utility's service situated or delivered on or about the customer's premises, the utility shall maintain records concerning the refusal of service which, at a minimum, shall include: the name and address of the person denied reconnection, the names of all company personnel involved in any part of the determination that

refusal of service was appropriate, the facts surrounding the reason for the refusal and any other relevant information.

(12/10) The commission shall recognize and permit recovery of reasonable operating expenses incurred by a utility because of this rule.

(13/11) A utility may apply for a variance from this rule by filing an application for variance with the commission pursuant to the commission's rules of procedure.

AUTHORITY: sections 386.250, 393.130 and 393.140, RSMo 2000.* Original rule filed June 13, 1984, effective Nov. 15, 1984.

Amended: Filed Dec. 30, 1992, effective Oct. 10, 1993. Amended: Filed March 10, 1995, effective Jan. 30, 1996. Emergency amendment filed Nov. 8, 2001, effective Nov. 18, 2001, expired March 31, 2002. Amended:

Filed Aug. 16, 2002, effective April 30, 2003.

*Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 393.130, RSMo 1939, amended 1949, 1967, 1969, 2002; and 393.140, RSMo 1939, amended 1949, 1967.

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

PRIVATE COST: This proposed amendment is expected to cost private entities approximately nine hundred twenty-one thousand dollars (\$921,000) in the first year, and five hundred twelve thousand dollars (\$512,000) each year thereafter, for the life of the rule. These costs may vary with inflation. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices on or before June 17, 2004, and should include a reference to Commission Case No. GX-2004-0496. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the Commission's electronic filing and information system at <<http://www.psc.mo.gov/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for July 9, 2004, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed amendment, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or Relay Missouri at 711.

**FISCAL NOTE
PRIVATE COST**

I. RULE NUMBER

Rule Number and Name:	4 CSR 240-13.055 Cold Weather Maintenance of Service: Provision of Residential Heat-Related Utility Service During Cold Weather
Type of Rulemaking:	Proposed Amendment

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule.	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Seven (7) Natural Gas Utilities	Missouri Public Service Commission Rate Regulated Natural Gas Utilities	\$542,000 per year over the first three years of the rule.
Four (4) Electric Utilities	Missouri Public Service Commission Rate Regulated Electric Utilities	\$107,000 per year over the first three years of the rule

III. WORKSHEET

1. The Missouri Public Service Commission (PSC) sent a draft of the proposed amended rule by e-mail to all the PSC rate regulated natural gas and electric utilities in the state asking for the fiscal impact of the proposed amended rule on their operations.
2. All of the PSC rate regulated natural gas and electric utilities responded to this request with numbers reflecting their estimated cost.

Natural Gas Utilities	Initial Implementation Cost	Ongoing Annual Cost
Laclede Gas Company	\$375,000	\$270,000
Missouri Gas Energy	\$300,000	\$200,000
AmerenUE	\$5,000	\$0
Aquila MPS and L&P	\$5,000	\$0
Atmos Energy	\$0	\$0
Southern Missouri Gas	\$0	\$0
Fidelity Natural Gas	\$0	\$0

Electric Utilities	Initial Implementation Cost	Ongoing Annual Cost
AmerenUE	\$5,000	\$0
Kansas City Power & Light	\$216,000	\$42,000
Aquila MPS and L&P	\$5,000	\$0
Empire District Electric	\$10,000	\$0

Total - Gas Utilities	\$685,000	\$470,000
Total - Electric Utilities	\$236,000	\$42,000

IV. ASSUMPTIONS

1. The life of the rule is estimated to be indefinite.
2. The lower private entity cost after the first year is based on the fact that there is a one-time initial cost for making changes to notification and billing systems.
3. It is important to note that the majority of the utilities will not experience any fiscal impact after their one-time implementation cost.
4. Fiscal year 2004 dollars were used to estimate cost. No adjustment for inflation is applied.
5. Estimates assume utilities will use all other debt collection options available to them.
6. The rule does not affect the creditor rights and remedies of a utility otherwise permitted by law.
7. The rule does not require a utility to commence service to an applicant engaged in name-switching to avoid payment of bills nor does it require commencement of service when there has been any other type of consumer fraud.
8. Affected entities are assumed to be in compliance with all other Missouri Public Service Commission rules and regulations and with all applicable Missouri statutes.
9. The universe of entities is based on fiscal year 2004 data and is assumed to remain constant.
10. Not all utilities are sending out disconnection notices to customers they have no capability or intent to actually disconnect so not all utilities are affected by this provision of the proposed amendment.
11. Not all utilities are treating customers who move from one residence to another in the same service territory as new customers so not all utilities are affected by this provision of the proposed amendment.
12. Some utilities are currently accepting payments from customers who are late on a payment agreement amount but have not yet been disconnected without terminating their payment arrangement so those utilities are not affected by this provision of the proposed amendment.
13. Not all utilities are denying cold-weather rule payment plans to all customers who have ever defaulted on a payment plan under the cold weather rule so those utilities are not affected by this provision of the proposed amendment.

14. A level of un-collectibles is included in the revenue requirements for each regulated gas and electric utility. The level may vary from year to year for many reasons other than the effects of this proposed amendment, including, for example: the economy, the level of unemployment in certain areas, the weather and the price of natural gas.
15. The dollar amounts in section III above detail initial implementation cost and ongoing annual cost. The total dollar amounts for compliance with the rule in the first three years are added together and divided by three to arrive at the dollar amounts given in section II above.