

**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**

EMERGENCY AMENDMENT

4 CSR 240-13.055 Cold Weather Maintenance of Service: Provision of Residential Heat-Related Utility Service During Cold Weather. The Commission is amending the rule to add a section (13).

PURPOSE: This emergency amendment modifies the existing provisions of this rule (known as the “Cold Weather Rule”) to: provide more lenient terms for reconnection of gas utility service to disconnected residential customers, prohibit assessing or billing of deposits, prohibit the assessment of late payment charges on deferred amounts, prohibit interest charges on account balances for the deferral period, require application of existing deposits and accrued interest to avoid discontinuance of service or reduce the amount needed to avoid discontinuance of service, and to allow the gas utilities to collect expenses associated with this emergency amendment.

*EMERGENCY STATEMENT: This emergency amendment temporarily modifies in part the existing provisions of the Commission’s Cold Weather Rule to ease restoration of service requirements to residential customers of gas utilities and to allow the gas utilities to collect expenses associated with this emergency amendment. Many customers were disconnected as a result of arrearages due to the extraordinary combination of extremely cold weather and record high market prices for natural gas last winter. Under the provisions of the Cold Weather Rule, utilities may require payment from some customers of all arrearages as a condition of restoration of service. In its Order Finding Necessity for Rulemaking issued November 6, 2001, the Missouri Public Service Commission found that amendments to the Cold Weather Rule were necessary. For the same reasons, the Missouri Public Service Commission finds that there is an immediate danger to the public health, safety, and welfare and a compelling governmental interest because thousands of Missourians face immediate and irreparable harm from the impending winter weather without a source of heat. This immediate danger requires emergency action. Because the emergency results from the extraordinary conditions of last winter, and will be addressed for this winter by this emergency amendment, no permanent change to the cold weather rule is being proposed at this time. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The procedures followed by the Missouri Public Service Commission included the opportunity for interested entities, including representatives of all Missouri regulated natural gas local distribution companies, to file pleadings commenting on a draft of proposed amendments prepared by the Staff of by the Missouri Public Service Commission, to file pleadings proposing their own amendments, and to offer sworn testimony on the record. The Missouri Public Service Commission believes this emergency amendment is fair to all interested parties under the circumstances. This*

emergency amendment was filed on November 8, 2001, effective November 18, 2001 and expires March 31, 2002.

(13) Special Provisions for Restoration of Service for the 2001-2002 Heating Season. This amendment only applies to providers of natural gas services. Other providers of heat-related utility services will continue to provide such service under the terms of sections (1) through (12) of this rule. The provisions of sections (1) through (12) of this rule continue to apply to providers of natural gas service except where inconsistent with the terms of this section .

(A) Notwithstanding section (8)(C)(2) of this rule to the contrary, the gas utility shall restore service upon initial payment of twenty-five (25) percent of the preexisting arrears or \$250, whichever is less, with the deferred balance to be paid in equal installments over the following eighteen (18) months. The customer and the gas utility may by mutual agreement reduce or extend the installment period. Any reconnection fee, trip fee, collection fee or other fee related to reconnection, disconnection or collection shall also be deferred. Any customer threatened with disconnection may retain service by entering into a payment plan as described in this paragraph, and all disconnect notices shall inform customers of this option. Any payment plan entered into under this emergency amendment shall remain in effect (as long as its terms are adhered to) for the term of the payment plan even after the effective period of this amendment has expired.

(B) Default on an agreement entered into under this section can be cured by payment of all installments delinquent under the agreement.

(C) No deposits shall be required of any customer under this section except for amounts owed due to unauthorized interference, diversion or unauthorized use of the gas utilities service.

(D) Notwithstanding section (5) of this rule to the contrary, before discontinuance of service for nonpayment of a delinquent amount, the natural gas utility shall apply the balance of any of the customer's security deposit plus accrued interest to the delinquent amount to eliminate or reduce the amount required to avoid the discontinuance. This section shall not apply to customers who have an amount owed due to unauthorized interference, diversion or unauthorized use of the gas utilities service.

(E) Late payment charges shall not be assessed on the deferral amount of any agreements entered into under this section, nor shall the utility charge customers interest on the account balance for the deferral period.

(F) The Commission shall grant an Accounting Authority Order, as defined in subsection (G), below, upon application of a gas utility, and the gas utility may book to Account 186 for review, audit and recovery all incremental expenses incurred and incremental revenues that are caused by this emergency amendment. Any such Accounting Authority Order shall be effective until September 30, 2003.

(G) The Commission has adopted the Uniform System of Accounts in 4 CSR 240-4.040. Accounting Authority Orders are Commission orders that allow a utility to defer certain expenses to Account 186 under the Uniform System of Accounts for possible recovery later. *State ex rel. Office of the Public Counsel v. Public Service*

Commission, 858 S.W.2d 806 (Mo. App. 1993); Missouri Gas Energy v. Public Service Commission, 978 S.W.2d 434 (Mo. App. 1998).

(H) This section shall be in effect through March 31, 2002.

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, expires March 31, 2002.

implementation of those substantive provisions of the emergency rule that MGE is capable of implementing.

ACCOUNTING AUTHORITY ORDER

6. The emergency rule provides for the grant by the Commission of an accounting authority order ("AAO") for the deferral of dollars associated with the emergency rule. Upon receipt of, and in reliance upon, a final and non-appealable Commission order granting to MGE the deferral authority requested herein including the conditions set out in paragraph 7, below, all in a manner acceptable to MGE, MGE will voluntarily implement those substantive provisions of the emergency rule that it is capable of implementing.¹ Furthermore, and also in reliance upon such a Commission order, MGE will voluntarily dismiss its pending litigation regarding the emergency rule as

¹ As explained in its Application for Rehearing filed in Case No. AX 2002-203 and in evidence presented to the Cole County Circuit Court (See Attachment 1 Appended hereto), due to limitations and constraints posed by its existing computerized customer information system, MGE believes it is unable to comply strictly with the following: 1) the requirement of subsection (A) of the emergency rule that "... the deferred balance [is] to be paid over the following eighteen (18) months . . . "; 2) the requirement of subsection (A) of the emergency rule that "... all disconnect notices shall inform customers of this option [to retain service by paying twenty-five (25) percent of preexisting arrears or \$250, whichever is less.]; and 3) the requirement of subsection (D) of the emergency rule that "... before discontinuance of service for nonpayment of a delinquent amount, the natural gas utility shall apply the balance of any customer's security deposit plus accrued interest to the delinquent amount or reduce the amount required to avoid discontinuance." Nevertheless, to the extent MGE is able to develop and implement manual or alternative processes to effectuate the spirit of such requirements, MGE will do so. For example, with respect to item 1), MGE may be able to develop and implement a spreadsheet tool for eighteen (18) month payment plans that *may* suffice so long as emergency rule customer volumes do not exceed the capacity of the spreadsheet tool. Also, with respect to item 2), MGE cannot alter the existing language of its disconnect notices within the time frames required, but it can—and if this Application is approved will—include inserts in all 10-day and 96-hour disconnect notices with the language envisioned in the emergency rule. Finally, with respect to item 3), deposit information is not contained on the service order our field collectors have with them when they make collection calls, but it *may* be possible to devise a manual process by which the field collectors are provided with such information on collection calls. To the extent a waiver is deemed necessary, MGE hereby respectfully requests that such a waiver be granted.