

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Revision of the)
Commission’s Rules Regarding Gas Utilities) File No. GX-2018-0390

PUBLIC COUNSEL’S COMMENTS ON PROPOSED RULES

COMES NOW, the Office of the Public Counsel (OPC) to provide comments on proposed Public Service Commission (Commission) rule changes. The OPC requests that the Commission consider the comments and recommendations provided as follows:

1. The Commission proposes repealing three existing rules within Commission Rule Chapter 3 regarding filing requirements for gas corporations, and moving their operative language to Chapter 40 regarding gas corporations generally.

2. Accordingly, the Commission proposes amending the substantive portions of 4 CSR 240-3.235 and 4 CSR 40-3.275 onto 4 CSR 240-40.090. In doing so, the Commission has retained existing deadlines for the filing of depreciation studies by gas utilities, now proposed as 4 CSR 240-40.090(1)(B)1.A. The most recent date contemplated by that language is July 1, 1996, which has long since passed. All gas utilities operating in Missouri have filed depreciation studies, and any new gas utility would necessarily be filing depreciation studies long after the deadlines in the proposed rule. The OPC suggests that all of 4 CSR 240-40.090(1)(B)1 is now irrelevant, and therefore may be removed from the proposed rule.

3. The OPC also notes that the Commission’s suggested 4 CSR 240-40.090(1) retains a reference to 4 CSR 240-3.175. The latter rule provides the required timeframe for electrical corporations to submit their depreciation studies. The actual citation to 4 CSR 240-3.175 is not problematic. However, in light of the concurrent transposition and consolidation of Commission rules, it is not clear why the Commission did not move this rule pertaining to electrical corporations

to Chapter 20 as other electrical corporation related rules were or are currently proposed to be moved. Failing to move 4 CSR 240-3.175, while accepting all of the Commission's changes in EX-2018-0389, AX-2018-0395, and AX-2018-0257 results in gas corporations being able to find nearly all of their filing rules in their own designated chapters whereas electrical corporations must examine multiple chapters for their filing requirements. The OPC does not believe this is the Commission's intended result, and offers that reprinting 4 CSR 240-3.175 within Chapter 20, along with amending 4 CSR 240-40.090, in a future "AX" docket better supports the Commission's goal of consolidating existing rules. In the alternative, the reference to 4 CSR 240-3.175(1)(B)1 within the amended 4 CSR 240-40.090 can be removed and replaced in lieu thereof with the phrase:

"A utility with simultaneous depreciation study submission due dates under the commission's gas utility and electrical utility rules may postpone its due date with respect to (1) of these rules by six (6) months."

However, the Commission may entirely avoid the issue of how to address the reference simply by adopting the recommendations in paragraph 2 of these comments.

4. The Commission's amended 4 CSR 240-40.090 also retains the requirement that gas utilities submit depreciation studies upon their initiation of a general rate increase. However, the proposed 4 CSR 240-40.090(1)(B)3 states that no such study is necessary:

"to the extent that the commission's staff received these items from the utility during the three (3) years prior to the utility filing for a general rate increase or before five (5) years have elapsed since the last time the commission's staff received a depreciation study."

(emphasis added).

As interpreted by the Commission, the “or” language in this subdivision means that gas utilities need not submit depreciation studies so long as five years have passed since it sent its last one, regardless of whether three years have passed since the utility’s last general rate case filing.¹ Effectively, the “three (3) years prior” language is moot by having the “five (5) years” language control, and subdivision 3 of 4 CSR 240-40.090(1)(B) is then duplicative of subdivision 2. The OPC would prefer depreciation studies to be updated more often to ensure proper ratemaking, and offers the following revision of the Commission’s proposed 4 CSR 240-40.090(1)(B) to effectuate that end while also eliminating extraneous language.

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

1. Upon the date five (5) years from the last time the commission’s staff received a depreciation study, database and property unit catalog from the utility; and
2. Upon submission of a general rate increase request. However, a gas utility need not submit a depreciation study, database or property unit catalog to the extent the commission’s staff received these items from the utility during the three (3) years prior to the utility’s filing for a general rate increase request.”

WHEREFORE, the OPC requests that the Commission incorporate the comments and recommendations provided herein.

¹ See *Order Granting Application for Waiver*, Case No. ER-2014-0351 (Oct. 27, 2014) (applying the same language in the context of an electric utility).

Respectfully,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this 1st day of February, 2019, with notice of the same being sent to all counsel of record.

/s/ Caleb Hall