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December 4, 2003

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**Re: Case No. GX-2004-0090**  
**Natural Gas IRSRS Rulemaking**

Dear Mr. Roberts:

Enclosed for filing please find the comments in support of the proposed rule 4 CSR 240-2.365 that is the subject of the above-referenced case. Staff will appear and testify at the hearing scheduled on December 10, 2003.

Sincerely,

**/s/ Thomas R. Schwarz, Jr.**

Thomas R. Schwarz, Jr.  
Deputy General Counsel  
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TRS:sw  
Enclosure

**COMMENTS OF THE MISSOURI PUBLIC SERVICE COMMISSION STAFF IN  
SUPPORT OF PROPOSED RULE 4 CSR 240-3.265**

COMES NOW the Missouri Public Service Commission Staff (Staff), and states the following in support of the Proposed Rule:

1. House Bill 208 (HB 208) was passed in the most recent legislative session and was signed into law by Governor Holden, making HB 208 effective on August 28, 2003.

2. HB 208, sections 393.1009 to 393.1015, RSMo, describe the definitions, parameters and procedures relevant to the filing and processing of petitions pertaining to an infrastructure system replacement surcharge (ISRS).

3. Sections 386.250 and 393.140, RSMo 2000, and section 393.1015.11, HB 208, effective August 28, 2003, provide rulemaking authority for implementation of sections 393.1009 to 393.1015, RSMo.

4. The purpose of HB 208 is to provide relief from regulatory lag for certain infrastructure costs. The legislation does so by providing rate relief earlier than would otherwise be provided by the Commission's accounting authority order process. HB 208 provides legislative sanction for a single issue rate case to provide appropriate revenues to reflect the growth in a Company's rate base caused by a natural gas utility's eligible plant investment and related expenses since its last general rate case.

An Accounting Authority Order allows a utility to defer unusual or extraordinary costs for future consideration, and possible recovery in a general rate case. The utility does this by recording them to a miscellaneous account. *State ex rel. Office of the Public*

*Counsel v. Public Serv. Comm'n*, 858 S.W.2d 806, 808, 810 (Mo. App. 1993); See, *Missouri Gas Energy v. Public Serv. Comm'n*, 978 S.W.2d 434, 435 to 437 (Mo. App. 1998). The Commission has granted AAO's to utilities that incur costs for such extraordinary things as floods, ice storms, main or service line safety programs, and electric plant rehabilitation. AAOs typically permit utilities to defer, for possible later recovery, carrying costs for the new plant investment, depreciation expense for the new investment, and property taxes that were attributable to the new plant. Recovery of cost deferred pursuant to an AAO is considered in the utility's next-following rate case. In the context of the rate case, the Commission decides the appropriate amounts for recovery, as well as the timeframe or amortization period over which the costs would be recovered. Recording expenses pursuant to an AAO is not a guarantee of recovery. See, *Missouri Gas Energy*, above.

5. Staff drafted the proposed rule to be consistent with the provisions of HB 208 and to be consistent with the other applicable statutes that the Missouri Public Service Commission operates under. Other statutes that apply to the provisions of HB 208 sections 393.1009 to 393.1015, RSMo Supp. 2003, include, but are not limited to, 386.250, 386.310, 386.390 and 393.140, RSMo 2000.

6. Staff received comments and suggested changes to the proposed rule from natural gas utilities through teleconferences and electronic mail messages after the proposed rule had been approved by the Commission to be forwarded to the Secretary of State for publication in the Missouri Register as a proposed rule. Staff has considered these comments and suggested changes to the proposed rule and recommends that the changes described below be implemented to clarify the rule and provide a rule that is

better aligned with the statutory intent of HB 208. Suggested changes to proposed rule 4 CSR 240-3.265 “Natural Gas Utility Petitions for Infrastructure System Replacement Surcharges” (underlined text represents language to be added and language that is struck out is to be deleted):

#### Section (1)(E)

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

#### Section (8)(A)

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

#### Section (8)(C)

(C) A ~~line item~~ surcharge description on all affected customer bills, which will identify the existence and amount of the ISRS on the bills.

#### Section (10)

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

#### Section (13)

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

#### Section (18)(J)

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

#### Section (18)(M)

(M) An explanation of how the infrastructure replacement projects associated with the ISRS do not increase revenues by directly connecting the infrastructure replacement to increasing pipeline capacity for service of, or interconnection of, new customers;

#### Section (18)(O)

(O) For each project for which recovery is sought, the net original cost of the infrastructure system replacements (original cost of eligible infrastructure system replacements, net of the accumulated deferred income taxes and the accumulated depreciation associated with the types of property listed below, that are currently included in rates and, for property included in a currently effective ISRS, the accumulated deferred taxes and the accumulated depreciations associated with the projects included in that ISRS total cost less net book value of any related facility retirements), the amount of related ISRS costs that are eligible for recovery during the period in which the ISRS will be in effect, and a breakdown of those costs identifying which of the following project categories apply and the specific requirements being satisfied by the infrastructure replacements for each:

Section (18)(O)(3)

~~3. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to replace existing facilities that have worn out or are in deteriorated condition;~~

Section (18)(O)(6)

~~6. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects extending the useful life, or enhancing the integrity of pipeline system components;~~

Section (18)(P)

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

WHEREFORE, Staff respectfully requests that the Commission give due consideration to the comments provided herein.

Dated: December 4, 2003