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AUG 22 2018



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August 20, 2018

In Re: GX-2018-0279

Chairman and Commissioners:

The Gas Safety Division of the Missouri Public Service Commission is tasked with inspecting interstate and intrastate pipelines to ensure compliance with Federal and State regulations. To comply with Section 536.031, RSMo, the Public Service Commission frequently sets workshops and rulemaking proceedings to update its Gas Safety rules, 4 CSR 240-40.

An amendment to Section 536.031(4) that would exempt the Commission's Gas Safety rules from the incorporation requirement would alleviate the need for these near annual proceedings. As these proceedings range in implementation time, by the time the Commission's rules match the Federal regulations, the Federal government often promulgates a new set of amendments, necessitating further action from the Commission.

Such an amendment may also address a question of enforcement lag and the Commission's ability to enforce the Federal standards not currently incorporated by the Commission's rules. The Public Service Commission is an administrative agency tasked with express authority, including the enforcement of its duly promulgated rules. To the extent a violation of a Federal regulation occurs that is not incorporated in the Commission's rules, the Commission's authority to intercede may be limited, and given the nature of the subject, could endanger the public.

The public and regulated entities would still have access to all iterations of the active rule through Section 536.021.2(3), RSMo, that requires the Commission to maintain copies of all incorporated materials.

Such an exemption presently exists for hospital licensure under Section 536.031(4), and similar language authorizing that the Commission "may incorporate, by reference, later additions or amendments to such rules, regulations, standards, or guidelines as needed to consistently apply current standards of safety and practice" related to Federal natural gas safety standards may serve to address this concern.

OPC Exhibit No. 1  
Date 8/20/18 Reporter Bjt  
File No. GX-2018-0279

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Respectfully,



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