

# Robin Carnahan

Secretary of State  
Administrative Rules Division

## RULE TRANSMITTAL

Administrative Rules Stamp

Rule Number 4 CSR 240-13.050

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:

Content Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

Email address morris.woodruff@psc.mo.gov

Data

Entry Chris Koenigsfeld Phone 573-751-4256 FAX 573-526-6010

Email address christine.koenigsfeld@psc.mo.gov

Interagency mailing address Public Service Commission, 9<sup>th</sup> Fl, Gov.Ofc Bldg, JC, MO

### TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☐ Proposed Rulemaking

☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☒ Order of Rulemaking

Effective Date for the Order

☐ Statutory 30 days OR Specific date

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☒ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Sections (3), (4), (5), (6), (7), (8), (9), (10), (11), and (12)

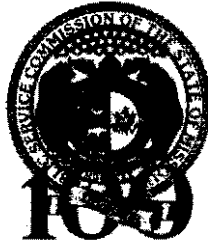
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JOINT COMMITTEE ON

DEC 04 2013

ADMINISTRATIVE RULES



**Commissioners**

**ROBERT S. KENNEY**  
Chairman

**STEPHEN M. STOLL**

**WILLIAM P. KENNEY**

***Missouri Public Service Commission***

POST OFFICE BOX 360  
JEFFERSON CITY, MISSOURI 65102  
573-751-3234  
573-751-1847 (Fax Number)  
<http://www.psc.mo.gov>

**JOSHUA HARDEN**  
General Counsel

**MORRIS WOODRUFF**  
Secretary

**WESS A. HENDERSON**  
Director of Administration  
and Regulatory Policy

**CHERLYN D. VOSS**  
Director of Regulatory Review

**KEVIN A. THOMPSON**  
Chief Staff Counsel

Jason Kander  
Secretary of State  
Administrative Rules Division  
600 West Main Street  
Jefferson City, Missouri 65101

Re: 4 CSR 240-13.050 Discontinuance of Service

Dear Secretary Kander,

**CERTIFICATION OF ADMINISTRATIVE RULE**

I do hereby certify that the attached is an accurate and complete copy of the proposed rulemaking lawfully submitted by the Missouri Public Service Commission.

Statutory Authority: sections 386.250 and 393.140, RSMo 2000

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

Morris L. Woodruff, Chief Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street  
P.O. Box 360  
Jefferson City, MO 65102  
(573) 751-2849  
[morris.woodruff@psc.mo.gov](mailto:morris.woodruff@psc.mo.gov)

Morris L. Woodruff  
Chief Regulatory Law Judge

**Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 240 – Public Service Commission  
Chapter 13 – Service and Billing Practices for Residential Customers of  
Electric, Gas, Sewer and Water Utilities**

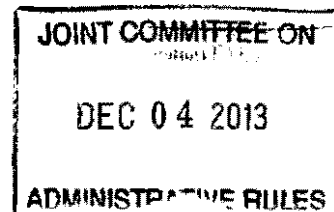
**ORDER OF RULEMAKING**

By the authority vested in the Public Service Commission under section 386.250(6) RSMo 2000, and section 393.140(11) RSMo 2000, the commission amends a rule as follows:

**4 CSR 240-13.050 is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 3, 2013 (38 MoReg 1371). Those sections with changes are reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended October 7, 2013, and the commission held a public hearing on the proposed amendment on October 10, 2013. The commission received timely written comments from Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company; Laclede Gas Company, Ameren Missouri, and The Empire District Electric Company (collectively the Missouri Utilities); the Office of the Public Counsel; Jacqueline Hutchinson, Vice President of Operations for People's Community Action Corporation in St. Louis Missouri; AARP, the Consumers Council of Missouri, and Legal Services of Eastern Missouri, Inc. (collectively the AARP group); Missouri-American Water Company; and the Staff of the Missouri Public Service Commission. In addition, the following people offered comments at the hearing: Rick Zucker, representing Laclede Gas Company and Missouri Gas Energy; Jim Fischer, representing Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company; Allison Erickson on behalf of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company (KCP&L and GMO); Russ Mitten, representing The Empire District Electric Company; Sarah Giboney, representing Ameren Missouri; Kathy Hart on behalf of Ameren Missouri; Tim Luft, on behalf of Missouri-American Water Company; Marc Poston, representing the Office of the Public Counsel; John Coffman, representing AARP and Consumers Council of Missouri; Jacqueline Hutchinson on behalf of Community Action Corporation in St. Louis Missouri; Jackie Lingum, representing Legal Services of Eastern Missouri, Inc.; Akayla Jones, representing the Staff of the Missouri Public Service Commission; and



Gay Fred and Lisa Kremer on behalf of the Staff of the Missouri Public Service Commission.

The commission considered this particular rule in conjunction with eleven other rules within Chapter 13. Not all persons offering comments addressed this particular rule.

**COMMENT:** The commission's staff offered a written comment indicating that it continues to support the amendment as proposed.

**RESPONSE:** The commission thanks staff for its comment.

**COMMENT:** The AARP group and Jacqueline Hutchinson oppose provision of subsections (1)(C) and section (6) that authorize a water utility to discontinue service to the water utility's customer for non-payment of a sewer charge by a sewer utility with which the water utility has a billing arrangement. The AARP group and Hutchinson are concerned that such an arrangement would be against the public interest because it would allow essential utility service to be shut off for non-payment of unrelated debts.

Missouri-American Water Company responds by pointing out that the shutoff of water service for non-payment of a sewer bill is specifically authorized by Missouri statute.

**RESPONSE:** Missouri-American is correct. The change in subsection (1)(C) and section (6) merely brings the commission's regulation into line with sections 393.015 and 393.016, RSMo (Supp. 2012). The commission will not change subsection (1)(C) and section (6) beyond the changes published in the Missouri Register.

**COMMENT:** The AARP group, supported by Public Counsel, would add a new subsection to section (2) to prohibit a utility from disconnecting service for "failure to pay estimated charges unless the customer has unreasonably hindered the utility's attempt to obtain an actual meter reading." The AARP group and Public Counsel contend the restriction would encourage utilities to make every effort to obtain an actual reading rather than rely on estimated charges.

Rick Zucker, representing Laclede Gas Company, counters that preventing disconnection based on an estimated bill would eliminate the value of an estimated bill; why go to the trouble of estimating a bill if the customer does not have to pay it. Furthermore, Zucker argues that prohibiting disconnection for an estimated bill would give the customer a strong incentive to do anything possible to prevent the utility from obtaining an actual meter reading.

**RESPONSE:** The proposed blanket prohibition on disconnection for an estimated billing is unnecessary. If a customer believes that an estimated bill is incorrect, he or she can avoid disconnection by disputing the charge. But completely banning disconnection for an estimated bill could make it difficult, if not impossible, for a utility to collect a legitimate debt and throw the burden of

that debt on the utility's other customers, who will ultimately pay for the utility's bad debts. The commission will not add the provision sought by the AARP group to the rule.

**COMMENT:** The amendment to section (3) as published in the Missouri Register would allow a utility to disconnect service anytime between 7:00 a.m. and 7:00 p.m., so long as the utility is accessible to receive a reconnection request at least an hour after disconnection. The current rule forbids disconnection before 8:00 a.m. and after 4:00 p.m.

The AARP group, Public Counsel, and Jacqueline Hutchinson oppose expanding the time allowed for disconnection. They fear that an evening shutoff would occur too late for the customer to contact social welfare agencies in an attempt to get services restored as those agencies would likely close at 5:00 p.m.

Laclede and Ameren Missouri support expanded disconnect hours because doing so would allow them to operate more efficiently.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission understands the consumer group's concern. An evening disconnection could make it harder for a customer to seek needed assistance to restore service before they face a cold, dark night without utility service. The commission will not change the 8:00 a.m. to 4:00 p.m. time allowed for disconnection.

**COMMENT:** The commission published a new section (4) in the Missouri Register that would allow a utility to replace some written and verbal notices to a customer with an electronic notice if the customer had previously agreed to receive billing and other notices electronically. The rule would still require at least one written notice 96 hours before discontinuance of service, or a phone call 24 hours before discontinuance.

The AARP group opposes allowing electronic notice to replace written and oral notice, reasoning that a customer who is about to be disconnected may have already lost internet service and would fail to receive the notice of disconnection. The Missouri Utilities group and KCPL/GMO generally support the new section, but they would clarify the language published in the Missouri Register by requiring written notice to be hard copy and by creating a window for notice by requiring the hard copy notice to be given at least 96 hours before disconnection or the phone call to be made at least 24 hours before disconnection.

**RESPONSE AND EXPLANATION OF CHANGE:** The concerns of the AARP group are well founded. Internet access could be the first service lost to a customer facing economic difficulties and that could prevent the customer from being made aware of a pending disconnection until they get a phone call 24 hours before they lose service. By then it might be too late for them to obtain help. The commission will not allow electronic service to be substituted for the written and verbal notice required elsewhere in the rule.

The AARP group suggested that section (4) could be amended to simply remove the words "in place of any written and verbal notices." However, since

the utility will not be allowed to substitute electronic service for other means of service, and would still have to send out all other written and oral notice required by the regulations, there is no longer any need for the new section (4) and it will be removed from the rule in its entirety. All succeeding sections will be renumbered accordingly.

**COMMENT:** Section (8) of the current rule (renumbered as section (10) in the proposed rule as published in the Missouri Register) requires a utility employee who is actually disconnecting service to a residence to first knock on the customer's door to announce their presence and to let the customer know that disconnection is proceeding. The rule does not require any actual contact with the customer, just that the door knock occur. The rule also allows the utility employee to skip the door knock if knocking on the door would endanger his or her safety. The commission has not proposed to change the door knock requirement.

The Missouri Utilities group and KCPL/GMO propose to eliminate the door knock requirement to protect the safety of their employees who do not always know what might be facing them when they knock on a door to tell the residents that their utility service is being disconnected.

The AARP group, Public Counsel and Jacqueline Hutchinson strongly urge the commission to keep the door knock requirement in place. They believe a knock on the door will often reveal the presence of some person or circumstance that would make a disconnection of utility service a threat to the health or wellbeing of the resident. For example, the door knock might reveal that a resident has electronic medical equipment in use and would be harmed if service is disconnected. One utility, Missouri-American Water Company expressed continued support for the existing door knock rule.

**RESPONSE:** The commission continues to agree with the consumer groups. The door knock requirement as it currently exists in the rule is a proper balancing of the interest of the safety of utility employees against the need to protect the health and welfare of vulnerable customers. The commission will not change the door knock rule.

**COMMENT:** The commission has proposed an extensive amendment to section (11), formerly section (9), which delays disconnection for 21 days if the customer or someone in their home is facing a medical emergency that will be aggravated by the discontinuance of utility service. The commission's staff indicates the proposed expansion of the rule is designed to reduce the subjectivity of the rule and to provide more guidance to the utilities trying to comply with the rule.

The Missouri Utilities group and Missouri-American Water Company indicate they have no problem with the current rule and prefer that more study be done before the rule is changed. They also express concern that proposed changes to this section were not discussed with the utilities during the workshops prior to the publication of the proposed amendment. John Coffman, representing

the AARP group, also suggested more study would be appropriate before changing the current rule.

The only commenter that supports a change in the rule is KCPL/GMO. That utility believes the changes are appropriate and necessary. They also propose several technical changes to various subsections of section (11) that they believe will improve operation of the rule.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees that more study of this section is needed before extensive changes are made. The commission will eliminate the changes to the section that were published in the Missouri Register.

**COMMENT:** The Missouri Utilities group proposes that section (13) be amended to eliminate any priority for reconnecting disconnected customers over customers who have applied for new service.

**RESPONSE:** The current rule's establishment of priority for reconnecting a disconnected customer is appropriate because such a customer is likely to be in more dire circumstances than an applicant waiting for service to be established at a new residence, as such applicant is likely to have a place to live while service in a new residence is established. In contrast, a customer who has been disconnected is likely sitting in the cold and dark while waiting for service to be restored. The commission will not make the change proposed by the Missouri Utilities group.

#### **4 CSR 240-13.050 Discontinuance of Service**

(3) On the date specified on the notice of discontinuance or within thirty (30) calendar days after that, and subject to the requirements of these rules, a utility may discontinue service to a residential customer between the hours of 8:00 a.m. and 4:00 p.m. Service shall not be discontinued on a day when utility personnel are not available to reconnect the customer's service, or on a day immediately preceding such a day. After the thirty (30) calendar day effective period of the notice, all notice procedures required by this rule shall again be followed before the utility may discontinue service.

(4) The notice of discontinuance shall contain the following information:

(A) The name and address of the customer and the address, if different, where service is rendered;

(B) A statement of the reason for the proposed discontinuance of service and the cost for reconnection;

(C) The date on or after which service will be discontinued unless appropriate action is taken;

(D) How a customer may avoid the discontinuance;

(E) The possibility of a payment agreement if the claim is for a charge not in dispute and the customer is unable to pay the charge in full at one (1) time; and

(F) A telephone number the customer may call from the service location without incurring toll charges and the address of the utility prominently displayed where the customer may make an inquiry. Charges for measured local service are not toll charges for purposes of this rule.

(5) An electric, gas or water utility shall not discontinue residential service pursuant to section (1) unless written notice by first class mail is sent to the customer at least ten (10) days prior to the date of the proposed discontinuance. Service of notice by mail is complete upon mailing. As an alternative, a utility may deliver a written notice in hand to the customer at least ninety-six (96) hours prior to discontinuance. Except, a water utility shall not be required to provide notice when discontinuing water service for nonpayment of sewer bill by the terms of a contract between the water utility and any sewer provider, when the sewer provider has duly issued notice of discontinuance of service to its customer. A sewer utility shall not discontinue residential sewer service pursuant to section (1) unless written notice by certified mail return receipt requested is sent to the customer at least thirty (30) days prior to the date of the proposed discontinuance; except:

(A) A water utility that is also a sewer utility and issues combined water and sewer billing may discontinue residential water service for nonpayment of the portion of a bill that is for residential sewer service after sending notice by first class mail at least ten (10) days prior to the date of the proposed water discontinuance, or hand-delivered notice at least ninety-six (96) hours prior to the proposed water discontinuance, as provided above, in lieu of providing specific notice of discontinuance of sewer service;

(B) A water utility may discontinue residential water service for nonpayment of a bill for residential sewer service from any sewer provider, by the terms of a contract between the water utility and any sewer provider, if the water utility issues sewer billing on behalf of the sewer provider combined with its water billing, after providing notice by first class mail at least ten (10) days prior to the date of the proposed water discontinuance, or hand-delivered notice at least ninety-six (96) hours prior to the proposed water discontinuance, as provided above, in lieu of the sewer provider sending any notice to the customer;



(C) A sewer utility may discontinue residential sewer service by arranging for discontinuance of water service with any water provider, by the terms of a contract between the sewer utility and the water provider, if the water provider issues combined water and sewer billing, after the water provider provides notice by first class mail at least ten (10) days prior to the date of the proposed water discontinuance, or hand-delivered notice at least ninety-six (96) hours prior to the proposed water discontinuance, as provided above, in lieu of the sewer utility sending any notice to the customer.

(6) A utility shall maintain an accurate record of the date of mailing or delivery. A notice of discontinuance of service shall not be issued as to that portion of a bill which is determined to be an amount in dispute pursuant to sections 4 CSR 240-13.045(5) or (6) that is currently the subject of a dispute pending with the utility or complaint before the commission, nor shall such a notice be issued as to any bill or portion of a bill which is the subject of a settlement agreement except after breach of a settlement agreement, unless the utility inadvertently issues the notice, in which case the utility shall take necessary steps to withdraw or cancel this notice.

(7) Notice shall be provided as follows:

(B) At least ten (10) days prior to discontinuance of service for nonpayment of a bill or deposit at a multidwelling unit residential building where each unit is individually metered and for which a single customer is responsible for payment for service to all units in the building or at a residence in which the occupant using utility service is not the utility's customer, the utility shall give the occupant(s) written notice of the utility's intent to discontinue service; provided, however, that this notice shall not be required unless one (1) occupant has advised the utility or the utility is otherwise aware that s/he is not the customer; and

(D) In the case of a multidwelling unit residential building where each unit is individually metered and the utility seeks to discontinue service for any lawful reason to at least one, but not all of the units in the building, and access to a meter that is subject to discontinuance is restricted, such as where the meter is located within the building, the utility may send written notice to the owner/landlord of the building, unit(s) or the owner/landlord's agent ("Owner") requesting the Owner to make arrangements with the utility to provide the utility access to such meter(s). If within 10 days of receipt of the notice, the Owner fails to make reasonable arrangements to provide the utility access to such meter(s) within 30 days of the date of the notice, or if the Owner fails to keep such arrangements, the utility shall have the right to gain access to its meter(s) for the purpose of discontinuing utility service at the Owner's expense. Such expenses may include, but shall not be limited to, costs to pursue court-ordered access to the building, such as legal fees, court costs, sheriff's law enforcement fees, security costs and locksmith charges. The utility's right to collect the costs for entry to its meter will not be permitted if the utility fails to meet the obligation to keep the access arrangements agreed upon between Owner and the utility. Notice by the utility under this section shall inform Owner (a) of the utility's need to gain access to its meter(s) to discontinue utility service to one or more tenants in the building, and (b) of the Owner's liability in the event that Owner fails to make or keep access arrangements. The notice shall state the utility's normal business hours. The utility shall render one or more statements to the Owner for any amounts due to the utility under this section. Any such statement shall be payable by the delinquent date stated thereon, and shall be subject to late payment charges at the same rate provided in the utility's tariff pertaining to general residential service.

(8) At least twenty-four (24) hours preceding discontinuance, a utility shall make reasonable efforts to contact the customer to advise the customer of the proposed discontinuance and what steps must be taken to avoid it. Reasonable efforts shall include either a written notice following the notice pursuant to section (4), a doorhanger or at least two (2) telephone call attempts reasonably calculated to reach the customer.

(9) Immediately preceding the discontinuance of service, the employee of the utility designated to perform this function, except where the safety of the employee is endangered, shall make a reasonable effort to contact and identify him/herself to the customer or a responsible person then upon the premises and shall announce the purpose of his/her presence. When service is discontinued, the employee shall leave a notice upon the premises in a manner conspicuous to the customer that service has been discontinued and the address and telephone number of the utility where the customer may arrange to have service restored.

(10) Notwithstanding any other provision of this rule, a utility shall postpone a discontinuance for a time not in excess of twenty-one (21) days if the discontinuance will aggravate an existing medical emergency of the customer, a member of his/her family or other permanent resident of the premises where service is rendered. Any person who alleges a medical emergency, if requested, shall provide the utility with reasonable evidence of the necessity.

(11) Notwithstanding any other provision of this rule, a utility may discontinue residential service temporarily for reasons of maintenance, health, safety or a state of emergency.

(12) Upon the customer's request, a utility shall restore service consistent with all other provisions of this chapter when the cause for discontinuance has been eliminated, applicable restoration charges have been paid and, if required, satisfactory credit arrangements have been made. At all times, a utility shall make reasonable effort to restore service upon the day service restoration is requested, and in any event, restoration shall be made not later than the next working day following the day requested by the customer. The utility may charge the customer a reasonable fee for restoration of service, if permitted in the utility's approved tariffs.