

**FILED****OCT 26 2010****Missouri Public
Service Commission****Robin Carnahan
Secretary of State****Administrative Rules Division
Rulemaking Transmittal Receipt**

Rule ID: 12166
Date Printed: 10/25/2010
Rule Number: 4 CSR 240-22.045
Rulemaking Type: Proposed Rule
Date Submitted to Administrative Rules Division: 10/25/2010
Date Submitted to Joint Committee on Administrative Rules: 10/25/2010

Name of Person to Contact with questions concerning this rule:

| | | | |
|--------------------------|---------------|-----------------------------------|-------------|
| Content: Morris Woodruff | Phone: 1-2849 | Email: morris.woodruff@psc.mo.gov | Fax: 6-6010 |
| RuleDataEntry: | Phone: | Email: | Fax: |

Included with Rulemaking:

| | |
|---------------------------|------------|
| Cover Letter | 10/25/2010 |
| Private Fiscal Note | 10/25/2010 |
| Affidavit for public cost | 10/25/2010 |

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**Robin
Carnahan**

**Secretary of State
Administrative Rules Division**

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ADMINISTRATIVE RULES

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Rule Number 4 CSR 240-22.045

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

Email address morris.woodruff@psc.mo.gov

Interagency mailing address Governor Office Bldg., Suite 900, 200 Madison St., Jefferson
City, MO 65102

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:

Small Business Regulatory
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SMALL BUSINESS
REGULATORY FAIRNESS BOARD

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Missouri Public Service Commission

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ROBERT SCHALLENBERG
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NATELLE DIETRICH
Director, Utility Operations

STEVEN C. REED
Secretary/General Counsel

KEVIN A. THOMPSON
Chief Staff Counsel

October 25, 2010

Robin Carnahan
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-22.045 Transmission and Distribution Analysis

Dear Secretary Carnahan,

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.

The Public Service Commission has determined and hereby certifies that this proposed rulemaking will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 536.017, RSMo 2000, that the proposed rulemaking does not constitute a taking of real property under relevant state and federal law, and that the proposed rulemaking conforms to the requirements of 1.310, RSMo, regarding user fees.

The Public Service Commission has determined and hereby also certifies that this proposed rulemaking complies with the small business requirements of 1.310, RSMo, in that it does not have an adverse impact on small businesses consisting of fewer than twenty-five full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo, by exempting any small business consisting of fewer than twenty-five full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

Statutory Authority: sections 386.040, 386.250, 386.610, and 393.140, RSMo 2000

Robin Carnahan
Secretary of State
October 25, 2010
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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

A handwritten signature in cursive script, reading "Morris L. Woodruff". The signature is written in dark ink and is positioned above the printed name and title.

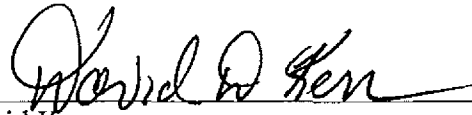
Morris L. Woodruff
Chief Regulatory Law Judge

AFFIDAVIT

PUBLIC COST

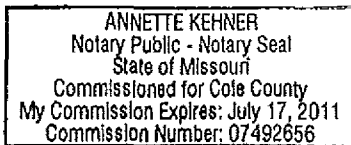
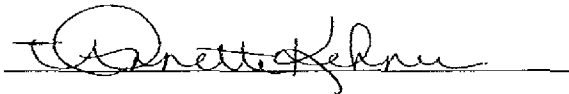
STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, David Kerr, Director, Missouri Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of the proposed rule, 4 CSR 240-22.045, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



David Kerr
Director
Department of Economic Development

Subscribed and sworn to before me this 7th day of Oct, 2010. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on 17 JULY 2011.



**Title 4-Department of Economic Development
Division 240-Public Service Commission
Chapter 22-Electric Utility Resource Planning**

PROPOSED RULE

4 CSR 240-22.045 Transmission and Distribution Analysis

PURPOSE: This rule specifies the minimum standards for the scope and level of detail required for transmission and distribution network analysis and reporting.

(1) The electric utility shall describe and document its consideration of the adequacy of the transmission and distribution networks in fulfilling the fundamental planning objectives set out in 4 CSR 240-22.010. Each utility shall consider, at a minimum, improvements to the transmission and distribution networks that:

(A) Reduce transmission power and energy losses. Opportunities to reduce transmission network losses are among the supply-side resources evaluated pursuant to 4 CSR 240-22.040(3). The utility shall assess the age, condition and efficiency level of existing transmission and distribution facilities, and shall analyze the feasibility and cost-effectiveness of transmission and distribution network loss-reduction measures.

(B) Interconnect new generation facilities. The utility shall assess the need to construct transmission facilities to interconnect any new generation pursuant to 4 CSR 240-22.040(3) and shall reflect those transmission facilities in the cost benefit analyses of the resource options.

(C) Facilitate power purchases or sales. The utility shall assess the transmission upgrades needed to purchase or sell pursuant to 4 CSR 240-22.040(3). An estimate of the portion of costs of these upgrades that are allocated to the utility shall be reflected in the analysis of preliminary supply-side candidate resource options.

(D) Incorporate advanced transmission and distribution network technologies affecting supply-side resources or demand-side resources. The utility shall assess transmission and distribution improvements that may become available during the planning horizon that facilitate or expand the availability and cost effectiveness of demand-side resources or supply-side resources. The costs and capabilities of these advanced transmission and distribution technologies shall be reflected in the analyses of each resource option.

(2) Avoided transmission and distribution cost. The utility shall develop, describe and document an avoided transmission capacity cost and an avoided distribution capacity cost. The avoided transmission and distribution capacity costs are components of the avoided demand cost pursuant to 4 CSR 240-22.050(5)(A).

(3) Transmission analysis. The utility shall compile information and perform analyses of the transmission networks pertinent to the selection of a resource acquisition strategy. The utility and the Regional Transmission Organization (RTO) to which it belongs both participate in the process for planning transmission upgrades.

(A) The utility shall provide, and describe and document, its:

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1. Assessment of the cost and timing of transmission upgrades to reduce losses, to interconnect generation, to facilitate power purchases and sales, and to otherwise maintain a viable transmission network;

2. Assessment of transmission upgrades to incorporate advanced technologies;

3. Estimate of avoided transmission costs;

4. Estimate of the portion and amount of incremental costs of regional transmission upgrades that would be allocated to the utility;

5. Estimate of any revenue credits the utility will receive in the future for previously built or planned regional transmission upgrades; and

6. Estimate of the timing of needed transmission and distribution resources and any transmission resources being built by the RTO for economic reasons that may impact the alternative resource plans of the utility.

(B) The utility may use the RTO transmission expansion plan in its consideration of the factors set out in section (3)(A) if all of the following conditions are satisfied:

1. The utility actively participates in the development of the RTO transmission plan;

2. The utility reviews the RTO transmission expansion plans each year to assess whether the RTO transmission expansion plans, in the judgment of the utility decision makers, are in the interests of the utility's customers; and

3. The utility documents and describes its review and assessment of the RTO transmission expansion plans.

(C) The utility shall provide copies of the RTO expansion plans, its assessment of the plans and any supplemental information developed by the utility to fulfill the requirements in section (3)(B) of this rule.

(D) The utility shall provide a report for consideration in 4 CSR 240-22.040(3) that identifies the physical transmission upgrades needed to interconnect generation, facilitate power purchases and sales, and otherwise maintain a viable transmission network, including:

1. A list of the transmission upgrades needed to physically interconnect a generation source within the RTO footprint;

2. A list of the transmission upgrades needed to enhance deliverability from a point of delivery within the RTO including requirements for firm transmission service from the point of delivery to the utility's load and requirements for financial transmission rights from a point of delivery within the RTO to the utility's load;

3. A list of transmission upgrades needed to physically interconnect a generation source located outside the RTO footprint;

4. A list of the transmission upgrades needed to enhance deliverability from a generator located outside the RTO including requirements for firm transmission service to a point of delivery within the RTO footprint and requirements for financial transmission rights to a point of delivery within the RTO footprint;

5. The estimated total cost of each transmission upgrade and estimated congestion costs; and

6. The estimated fraction of the total cost and amount of each transmission upgrade allocated to the utility.

(4) Analysis required for transmission and distribution network investments to incorporate advanced technologies.

(A) The utility shall develop, and describe and document, plans for transmission upgrades to incorporate advanced transmission technologies as necessary to optimize the investment in the advanced technologies for transmission facilities owned by the utility. The utility may use the RTO transmission expansion plan in its consideration of advanced transmission technologies if all of the conditions in (3)(B)1. through (3)(B)3. are satisfied.

(B) The utility shall develop, and describe and document, plans for distribution network upgrades as necessary to optimize its investment in advanced distribution technologies.

(C) The utility shall describe and document its optimization of investment in advanced transmission and distribution technologies based on an analysis of:

1. Total costs, including:

- A. Costs of the advanced grid investments;
- B. Costs of the non-advanced grid investments;
- C. Reduced resource costs through enhanced demand response resources and enhanced integration of customer owned generation resources; and
- D. Reduced supply-side production costs;

2. Cost effectiveness, including:

A. The monetary values of all incremental costs of the energy resources and delivery system based on advanced grid technologies relative to the costs of the energy resources and delivery system based on non-advanced grid technologies;

B. The monetary values of all incremental benefits of the energy resources and delivery system based on advanced grid technologies relative to the costs of the energy resources and delivery system based on non-advanced grid technologies; and

C. Additional non-monetary factors considered by the utility;

3. Societal benefit, including:

- A. More consumer power choices;
- B. Improved utilization of existing resources;
- C. Opportunity to reduce cost in response to price signals;
- D. Opportunity to reduce environmental impact in response to environmental signals;

4. Any other factors identified by the utility; and

5. Any other factors identified in the special contemporary issues process pursuant to 4 CSR 240-22.080 (4) or the stakeholder group process pursuant to 4 CSR 240-22.080 (5).

(D) Before the utility includes non-advanced transmission and distribution grid technologies in its triennial compliance filing or annual update filing the utility shall:

1. Conduct an analysis which demonstrates that investment in each non-advanced transmission and distribution upgrade is more beneficial to consumers than an investment in the equivalent upgrade incorporating advanced grid technologies. The utility may rely on a generic analysis as long as it verifies its applicability; and

2. Describe and document the analysis.

(E) The utility shall develop, describe and document the utility's cost benefit analysis and implementation of advanced grid technologies to include:

1. A description of the utility's efforts at incorporating advanced grid technologies into its transmission and distribution networks;

2. A description of the impact of the implementation of distribution advanced grid technologies on the selection of a resource acquisition strategy; and

3. A description of the impact of the implementation of transmission advanced grid technologies on the selection of a resource acquisition strategy.

*AUTHORITY: sections 386.040, 386.250, 386.610 and 393.140, RSMo 2000. * Original rule filed June 12, 1992, effective May 6, 1993.*

**Original authority: 386.040, RSMo 1939; 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991; 386.610, RSMo 1939; and 393.140, RSMo 1939, amended 1949, 1967.*

PUBLIC COST: Adoption of this proposed rule will not cost affected state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE COST: Adoption of this proposed rule will cost affected private entities \$140,000 in the aggregate.

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Steve Reed, Secretary of the Commission, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices on or before January 3, 2011, and should include a reference to Commission File No. EX-2010-0254. Comments may also be submitted via a filing using the Commission's electronic filing and information system (EFIS). A public hearing regarding this proposed rule is scheduled for January 6 at 9:00 a.m. in the commission's offices in the Governor Office Building, 200 Madison Street, Room 305, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 (voice) or Relay Missouri at 711.

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of a Proposed Rulemaking)
Regarding Revision of the Commission's)
Chapter 22 Electric Utility Resource)
Planning Rules)

File No. EX-2010-0254

DISSENT OF COMMISSIONER JEFF DAVIS TO THE PROPOSED RULEMAKING REVISING THE COMMISSION'S CHAPTER 22 ELECTRIC UTILITY RESOURCE PLANNING RULES

I respectfully dissent from my colleagues' order to promulgate these rules as they are currently written.

Anyone who has ever been involved in the integrated resource planning (IRP) process knows these rules have desperately needed revision for years. It's taken a long time to get where we are. These rules are an improvement in some respects, but something important is missing: accountability for the Public Service Commission and the PSC Staff for any outcome in these IRP proceedings. It may seem like an antiquated note, but I think we need to take responsibility for the decisions we make – or in this case – fail to make.

Both the Missouri Energy Development Association (MEDA) and the Missouri Department of Natural Resources (MDNR) offered language whereby the Commission would at least "acknowledge" the utility's resource plan. "Acknowledgement" of the plan would enhance the process because it would force the parties and the staff to focus on outcomes as well as the process by which those outcomes were determined. After all, outcomes should be the purpose of the IRP process. More importantly, electric utilities could use the acknowledgement process to establish the prudence of making--or not making--certain large capital expenditures that are going to amount to billions of dollars over the next decade (e.g.

– whether to shut down and decommission one or more coal plants or to continue retrofitting all of them) before they get to a rate case and have to argue over imprudence or lack thereof.

Whether and how we address IRP decisions will definitely impact customer rates for years to come. Failing to act on the substance of IRPs constitutes a decision in and of itself. The Commission's failure sends a message of uncertainty to the utilities we regulate, their investors and Wall Street saying either "we want to be free to disavow your plan and disallow the expenses later" or "we are afraid to be criticized for acknowledging a plan that later failed."

Ultimately, our failure to address the substance of utility resource plans increases financing costs for capital investment projects as well as litigation costs in future rate cases because parties will litigate the issue in future cases and knowing the Commission may disallow expenses, lenders and investors will want higher returns. That uncertainty will assuredly cause Missouri investor-owned electric utilities to place the least possible amount of investment capital at risk short-term. This is important because the cheapest plan today will not likely be the cheapest plan over the next one to five years, and even less likely over the long-term (from 30 to 50 years). Thus, the ratepayers could end up paying higher rates long-term so the utility can consistently save a few dollars on the front end, or because the utility opted for cheaper, less reliable technology.

The importance of this issue is best illustrated by the decisions the Commission faces regarding our aging fleet of coal plants. In September, Wood Mackenzie's North American power research group issued a startling report that almost 60 gigawatts of coal-fired electric plants could be retired over the next decade. Independent verification of that estimate comes from Ellen Lapson, Managing Director of Corporate Ratings for Fitch Rating Agency. On

September 30, 2010, at the Financial Research Institute, Director Lapson said that Wood Mackenzie's number was a reasonable number. At least two Commissioners were present at that meeting.

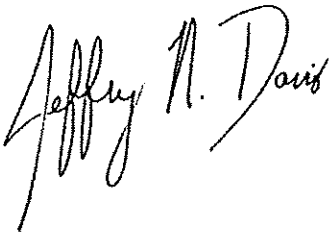
The findings of the Wood Mackenzie report ought to send a shiver down the spine of everyone here at the PSC as well as anyone employed by a Missouri utility. More than 80% of the electricity consumed in this state is fueled by coal. Collectively, Missouri utilities probably own around 10,000 megawatts of coal-fired generation, if not more. Ameren Missouri is the largest Missouri utility and owns several thousand megawatts of coal-fired generation all by itself, but everyone including the utilities who've camouflaged themselves as being leaders in the green revolution have similar risks. So, when the Wall Street analysts say "Coal is in the crosshairs" they mean pretty much every Missouri utility, but especially Ameren because they own the most coal plants, and that ultimately every utility customer in the state is in the crosshairs. Each and every one of our investor-owned electric utilities is going to make significant investment decisions regarding the retirement or retrofitting of a large fleet of coal plants averaging more than 40 years or older as well as the addition of new resources to replace these retiring coal plants, meet growing demand and comply with government mandates for utilities to buy certain amounts of "renewable" electricity.

Presidents and governors don't punt and this Commission shouldn't punt either. Hundreds of millions, if not billions, of dollars are at stake when our electric utilities make these decisions and customer rates are hanging in the balance. We owe it to the ratepayers and to the utilities we regulate to be decisive and thereby meet this Commission's statutory obligation to assure safe and adequate service for consumers at a just and reasonable rate. It's silly and unconscionable to spend a couple of years working on more than 60 pages of

rules that force the utility to think of every scenario, to document how every calculation is made, to check to see if the work was performed correctly and then do nothing with such documents except hold them, waiting to whip them out on some unsuspecting utility executive for not following a plan we don't intend to make them follow until the day they deviate from it.

In conclusion, a Commission majority that has shown a willingness to micro-manage electric utilities by requiring them to undertake low-income assistance programs and make our utilities buy Missouri wind-generated electricity ought not have a problem "acknowledging" whether an electric utility's preferred resource plan seems like a good or a bad one.

Respectfully submitted,

A handwritten signature in black ink, reading "Jeffery N. Davis". The signature is written in a cursive style with a large, stylized "J" and "D".

Jeff Davis, Commissioner

Dated at Jefferson City, Missouri
On this 25th day of October, 2010.

**FISCAL NOTE
PRIVATE COST**

- I. Department Title:** Missouri Department of Economic Development
Division Title: Missouri Public Service Commission
Chapter Title: Chapter 22 - Electric Utility Resource Planning

| | |
|-------------------------------|--|
| Rule Number and Title: | 4 CSR 240-22.045 Transmission and Distribution Analysis |
| Type of Rulemaking: | New Rulemaking |

II. SUMMARY OF FISCAL IMPACT

| Estimate of the number of entities by class which would likely be affected by the adoption of the rule: | Classification by types of the business entities which would likely be affected: | Estimate in the aggregate as to the first year cost of compliance with the rule by the affected entities: | Estimate in the aggregate as to the cost of compliance with the rule by the affected entities (years 2-4): |
|---|--|---|--|
| 4 | Investor-owned electric utilities | \$140,000 | \$140,000 |

III. WORKSHEET

1. KCPL estimated the an annual cost of \$80,000 to comply with this proposed rule
2. Empire stated that it was difficult to assign any costs at this time to this proposed rule. However, it does estimate a total increase in the cost of report writing (in which it specifically mentions the 4 CSR 240-22.045) of \$30,000
3. AmerenUE did not estimate a fiscal impact for this proposed rule.

IV. ASSUMPTIONS

- The estimates given by KCPL are for both KCP&L and KCP&L Greater Missouri Operations Company. Annual cost for each utility is \$40,000.
- There would be some costs to write the reports required by the rule.
- Using the estimate of \$40,000 per utility given by KCPL, annual cost for AmerenUE is estimated at \$40,000.
- Using the estimate of \$40,000 per utility and the changes to filing frequency for Empire which results in Empire having to meet the full rule requirements every six years instead of the current requirement of every 3 years, annual cost for Empire is estimated at \$20,000
- *Therefore, the total cost for compliance with this proposed rule is estimated to be \$140,000.*

Small Business Regulatory Fairness Board

Small Business Impact Statement

Date: 9-13-2010

Rule Number: 4 CSR 240-22.045

Name of Agency Preparing Statement: Public Service Commission

Name of Person Preparing Statement: Lena Mantle

Phone Number: 573-751-520

Email: Lena.Mantle@psc.mo.gov

Name of Person Approving Statement:

Please describe the methods your agency considered or used to reduce the impact on small businesses *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

Not applicable, no small businesses impacted. Only directly impacts the four investor-owned utility companies in the state.

Please explain how your agency has involved small businesses in the development of the proposed rule.

Not applicable, no small businesses impacted. Only directly impacts the four investor-owned utility companies in the state. However, the MoPSC held stakeholder workshops where any interested entity could participate in the process.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

This proposed rule will not cost state agencies or political subdivisions more than \$500 in the aggregate.

No additional fees will be collected specifically associated with this rulemaking.

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

Not applicable, no small businesses impacted. Only directly impacts the four investor-owned utility companies in the state.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

Not applicable, no small businesses impacted. Only directly impacts the four investor-owned utility companies in the state.

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

The four investor-owned electric utilities in the state.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes___ No_X_

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.