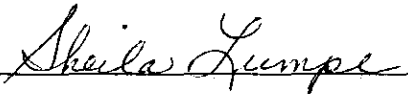


MEMORANDUM

TO: Dale Hardy Roberts, Secretary
DATE: August 23, 1999
RE: Authorization to File 4 CSR 240-18.010 with the Office of Secretary of State
CASE NO: MOX-2000-175

The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file the attached proposed amendment with the Office of Secretary of State, to wit:

4 CSR 240-18.010 – Safety Standards—Electric and Telephone Utilities and Rural Electric Cooperatives




Sheila Lumpe, Chair

Harold Crumpton, Commissioner



Connie Murray, Commissioner



Robert Schemenauer, Commissioner



M. Dianne Drainer, Vice Chair

FILED

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Missouri Public
Service Commission

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SECRETARY OF STATE
ADMINISTRATIVE RULES DIVISION

REBECCA MCDOWELL COOK
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

COPY

A "SEPARATE" rule transmittal sheet must be used for EACH individual rulemaking.

- A. Rule Number 4 CSR 240-18.010
Diskette File Name 18.010 proposed amendment
Name of Person to call with questions about this rule:
Context Morris L. Woodruff Phone 573-751-2849 FAX 573-526-7341
Data Entry Lonnell Boyce Phone 573-751-3350 FAX 573-751-1847
Interagency Mailing Address Truman Bldg., 301 W. High St., Room 530, Jefferson City, MO
- Statutory Provision for Rulemaking
Authority §§ 386.310 RSMo (1998) and 394.160 RSMo (1994) Provide Most Current RSMo Year 1998
Date Filed With the Joint Committee on Administrative Rules Exempt per Sections 536.024 and 536.037, RSMo Supp. 1998, and Executive Order No. 97-97 (June 27, 1997)
- B. CHECK, IF INCLUDED: FORMS, List by Mo-Form Number, # of Pages
☒ Cover Letter
☒ Affidavit
____ Cost Statements
____ Public Entity Fiscal Note
____ Private Entity Fiscal Note
OTHER Takings Analysis
Small Business Impact Analysis
- C. RULEMAKING ACTION TO BE TAKEN
Emergency Rulemaking, Must Specify Effective Date
☒ Proposed Rulemaking (Amendment to Existing Rule)
____ Order of Rulemaking (MUST complete page 2 of this transmittal)
____ Withdrawal (Rule, Amendment, Rescission or Emergency)
____ Rule Action Notice
____ In Addition
- D. SPECIFIC INSTRUCTIONS: In this space indicate any special instructions (e.g., specify publication date preference, identify material incorporated by references, etc.)

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number (Not applicable)

1a. Effective Date for the Order

Statutory 30 days

Or later specific date

1b. Does the Order of Rulemaking contain changes to the rule text?

YES

NO

1c. If the answer is YES, please complete section F. If the answer is NO, Stop here.

F. Please provide a complete list of the changes in the rule text for the order or rulemaking, indicating the specific section, subsection, subparagraph, part, etc., where each change is found.

(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer language that appears at the bottom of this page.)

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.



Commissioners
SHEILA LUMPE
Chair

HAROLD CRUMPTON

CONNIE MURRAY

ROBERT G. SCHEMENAUER

M. DIANNE DRAINER
Vice Chair

Missouri Public Service Commission

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

August 27, 1999

GORDON L. PERSINGER
Acting Executive Director
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

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**SECRETARY OF STATE
ADMINISTRATIVE RULES DIVISION**

Honorable Rebecca McDowell Cook
Secretary of State
600 West Main Street
Jefferson City, Missouri 65101

ATTENTION: Administrative Rules Division

I do hereby certify that the attached is an accurate and complete copy of the Proposed Amendment lawfully submitted by the Missouri Public Service Commission for filing this 27th day of August, 1999, and that a takings analysis and small business impact analysis have occurred.

Rule: 4 CSR 240-18.010 -- Safety Standards -- Electric and Telephone Utilities and Rural Electric Cooperatives

Statutory authority: Sections 386.310, RSMo (Supp. 1998) and 394.160, RSMo (1994).

Missouri Public Service Commission Case No.: OX-2000-175

If there are any questions, please contact: Morris L. Woodruff, Regulatory Law Judge
Missouri Public Service Commission
301 West High Street, Room 530
Post Office Box 360
Jefferson City, Missouri 65102
(573) 751-2849

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

DHR:MLW:lfb

Enclosures: Packets for Proposed Rule 4 CSR 240-18.010
+Proposed Rule in Word 97 format on 3-1/2" diskette

(Public Entity – No Cost)

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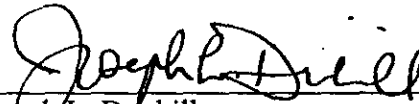
STATE OF MISSOURI }

COUNTY OF COLE }

AUG 27 1999

SECRETARY OF STATE
ADMINISTRATIVE RULES DIVISION

I, Joseph L. Driskill, Director of the Department of Economic Development, first being duly sworn on my oath state that it is my opinion that the cost of *Proposed Amendment to Rule 4 CSR 240-18.010* is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Joseph L. Driskill

DIRECTOR

Department of Economic Development

Subscribed and sworn to before me this 27th day of August,
1999. I am commissioned as a notary public within the County of Cole,
State of Missouri, and my commission expires on April 26, 2003.


NOTARY PUBLIC

LAURA L. HOSKINS
NOTARY PUBLIC STATE OF MISSOURI
COLE COUNTY
MY COMMISSION EXP. APR. 26, 2003

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 18—Safety Standards**

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**SECRETARY OF STATE
ADMINISTRATIVE RULES DIVISION**

PROPOSED AMENDMENT

**4 CSR 240-18.010 Safety Standards--Electric and Telephone Utilities and
Rural Electric Cooperatives**

PURPOSE: This amendment provides for the adoption and incorporation by reference the most recent edition of the American National Standard, National Electrical Safety Code (NESC) as approved by the American National Standards Institute on June 6, 1996.

(1) The commission adopts as its rule and incorporates by reference, **Parts 1, 2 and 3 and Sections 1, 2 and 9 of the American National Standard, National Electric Safety Code (NESC); [1993] 1997 Edition** as approved by the American National Standards Institute on [July 10, 1992] **June 6, 1996**. [It] The NESC is published by the Institute of Electrical and Electronics Engineers, Inc., as the minimum safety standards relating to operation of electric and telephone utilities and rural electric cooperatives. The NESC is composed of four (4) different parts and four (4) sections, each of which pertain to different aspects of the electric and telecommunications industries. [The commission adopts Parts 1, 2 and 3 and Sections 1, 2 and 9.] Part 1 specifies rules for the installation and maintenance of equipment normally found in electric generating plants and substations. Part 2 pertains to safety rules for overhead electric and communication lines. Part 3 contains safety rules for underground electric and communication lines. Section 1 is an introduction to the NESC, Section 2 defines special terms and Section 9 requires certain grounding methods for electric and communications facilities.

*AUTHORITY: sections 386.310 RSMo (Cum. Supp. [1989]1998) and 394.160 RSMo ([1986] 1994).** Original rule filed March 15, 1978, effective Oct. 2, 1978. Amended: Filed April 8, 1981, effective Oct. 15, 1981. Amended: Filed Feb. 9, 1984, effective June 15, 1984. Amended: Filed June 12, 1987, effective Sept. 15, 1987. Amended: Filed Jan. 5, 1990, effective April 13, 1990. Amended: Filed March 23, 1993, effective Oct. 10, 1993.

PUBLIC ENTITY COSTS: This proposed amendment will not cost state agencies or political subdivisions more than \$500 in the aggregate.

PRIVATE ENTITY COSTS: This proposed amendment will not cost private entities more than \$500 in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Secretary of State, Rebecca McDowell Cook, Secretary of State, P.O. Box 778, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. Comments should refer to Case No. OX-2000-175, and be filed with an original and fourteen (14) copies. A public hearing will be at 9:00 a.m., on Nov. 5, 1999. The public hearing will be held at the Truman State Office Building, Room 520B, 301 West High Street, Jefferson City, Missouri. No cross-examination of witnesses will be permitted. Anyone with special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days before the hearing at one of the following numbers Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.



Commissioners

SHEILA LUMPE
Chair

HAROLD CRUMPTON

CONNIE MURRAY

ROBERT G. SCHEMENAUER

M. DIANNE DRAINER
Vice Chair

Missouri Public Service Commission

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DANA K. JOYCE
General Counsel

August 23, 1999

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**SECRETARY OF STATE
ADMINISTRATIVE RULES DIVISION**

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
Post Office Box 360
Jefferson City, Missouri 65102

RE: Proposed Amendment to Rule 4 CSR 240-18.010

Dear Mr. Roberts:

Executive Order 93-13 requires state agencies to undertake a "takings analysis" of each proposed rule or regulation in light of the United States Supreme Court decision in *Lucas v. South Carolina Coastal Council*, 112 S. Ct. 2886 (1992). Pursuant to that order, I have undertaken a "takings analysis" of the above-referenced proposed rulemaking. In *Lucas*, the Court held that state regulation depriving an owner of real property of all economically beneficial use of that property constitutes a "taking" under the Fifth and Fourteenth Amendments of the U.S. Constitution, for which the property owner must be compensated. The Court also held that when state regulations compel a property owner to suffer a permanent physical invasion of his/her property, such an invasion is compensable.

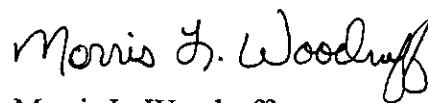
The proposed amendment provides for the adoption and incorporation by reference the most recent edition of the American National Standard, National Electric Safety Code (NESC) as approved by the American National Standards Institute on June 6, 1996.

The proposed amending rule does not implicate the takings clause of the U.S. Constitution, because the rule does not involve the taking of real property.

Mr. Dale Hardy Roberts
Page two
August 23, 1999

Please let me know if you have any questions on this issue.

Very truly yours,

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
Regulatory Law Judge

MLW:lfb