

Rule Issue Paper

Proposed New Rule: 4 CSR 240-3.440 Small Steam Heating Utility Rate Case Procedure

What is the problem and proposed solution?

The Governor signed House Bill 208 making it effective August 28, 2003. This bill requires the Public Service Commission to adopt rate case procedures similar to 4 CSR 240-3.240 Gas Utility Small Company Rate Increase Procedure for steam heating companies with less than one hundred customers.

Staff proposes that the Commission adopt rule 4 CSR 240-3.440. This rule is necessary to describe the provisions that small steam heating utilities must follow to file a rate case per the new statute. The Staff is aware of one small steam heating utility that is likely to file a rate case after the effective date of HB 208. The other steam heating utility has a traditional rate increase case on file with the Commission.

Would this rule change existing or scheduled new processes or procedures?

This rule will establish new procedures for filing and review of rate cases for small steam heating companies.

Who will be affected by the new rule?

Trigen and Aquila are the two regulated steam heating utilities in Missouri and both are eligible to participate in this procedure under the new statute and this proposed rule. Commission Staff, OPC and customers receiving service from these utilities will also be affected.

What is the fiscal impact to the PSC?

None

What is the fiscal impact to the utilities?

This rule will benefit these utilities by establishing an abbreviated rate case procedure. The rate case procedures outlined in this rule do not require the same level of information or time as a standard rate case.

What is the fiscal impact to the Missouri business?

This rule may result in more steam heat utility rate cases and may also result in more frequent changes in rates to customers that receive service from these utilities.

Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240 – Public Service Commission

Chapter 3 – Filing and Reporting Requirements

EMERGENCY RULE

4 CSR 240-3.440 Small Steam Heating Utility Rate Case Procedure

***PURPOSE:** This rule provides procedures whereby small steam heating utilities may request increases in their annual operating revenues, without the necessity of meeting the filing requirements for a general rate increase request as set forth in 4 CSR 240-3.030.*

***EMERGENCY STATEMENT:** Small steam heating utilities provide essential services to commercial businesses and industrial customers in several large urban areas of Missouri. This emergency rulemaking will establish small company ratemaking procedures for small steam heating utilities that should be less costly and expedited. This rulemaking was mandated by the 92nd General Assembly in House Bill 208, which Governor Holden signed on July 16, 2003 and which becomes effective August 28, 2003. The Commission finds a compelling governmental interest exists to implement the rule the date the law becomes effective so as to permit small steam heating utilities to utilize the statute immediately, which necessitates this emergency action. A proposed rule, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Commission believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed August 18, 2003, effective August 28, 2003 and expires February 28, 2004.*

(1) Notwithstanding any other rule to the contrary, a small steam heating utility serving one hundred (100) or fewer customers (small steam heating utility) may request an increase in its annual operating revenues through the procedures set forth in this rule by filing a letter requesting the change. The request shall not be accompanied by any tariff sheets. The small steam heating utility rate case shall be conducted as follows:

(A) The original letter requesting the change shall be filed with the secretary of the commission and one (1) copy shall be furnished to the public counsel. The letter shall state:

1. the amount of the additional revenue requested,
2. the reason(s) for the proposed change,
3. a statement that all commission annual assessments have been paid in full or are being paid under an installment plan, and
4. a statement that the small steam heating utility's current annual report is on file with the commission.

(B) The small steam heating utility, in writing, shall notify each customer and each provider of gas or electric service in the area of the request for additional revenue and the effect on the typical commercial and industrial customer's bill. The notice shall indicate that customers' responses may be sent to the Energy Department Manager of the commission or the public counsel within thirty (30) days of the date shown on the notice. A draft copy of the notice shall be sent to the Energy Department Manager of the commission for verification of the accuracy of the notice before being sent to the small steam heating utility's customers. A copy of the final notice shall then be sent to the Energy Department Manager of the commission and the public counsel. The commission staff and the public counsel shall exchange copies of customer responses upon their receipt.

(C) Any customer, gas or electric service provider responding within thirty days of the date of the notice shall be entitled to copies of all filings, with the possible exception of any information deemed to be confidential or proprietary, subsequently made in the case and may participate in any conferences or hearings therein.

(D) Upon receipt of the steam heating utility's request, the commission staff shall schedule an investigation of the steam heating utility's operations and an audit of its financial records. The steam heating utility, in compliance with commission rule 4 CSR 240-2.090 Discovery and Prehearing, shall make available the following:

1. All financial records,
2. All billing and sales data, and
3. All customer information.

(E) When the investigation and audit are complete, the commission staff shall notify the steam heating utility and public counsel whether the requested additional revenue is recommended in whole or in part, of the rate design proposal for the increase, and of any recommended operational changes.

(F) If public counsel wishes to conduct an investigation and audit of the steam heating utility, it must do so within the same time period as staff's investigation and audit;

(G) The commission staff, within twenty-one (21) days from the completion of its investigation, shall arrange a conference with the steam heating utility and shall notify the public counsel of the conference prior to the conference, in order to provide the public counsel an opportunity to participate;

(H) If the conference between the commission staff, the steam heating utility and the public counsel results in an agreement concerning additional revenue requirements and any other matters pertaining to the steam heating utility's operations, including responses to customer concerns, the agreement among the commission staff, the steam heating utility and the public counsel shall be reduced to writing. The steam heating utility may then file tariff sheet(s) with an effective date which is not fewer than thirty (30) days after the tariff's issue date and no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. The steam heating utility shall file a copy of the agreement with its tariff;

(I) If the conference results in an agreement between the commission staff and the steam heating utility only, the steam heating utility at this time shall file the necessary tariff sheet(s) with the commission in accordance with the agreement. The tariff sheet(s) shall contain an effective date of not fewer than forty-five (45) days from the issue date. The steam heating utility shall notify customers in writing of the proposed rates resulting from the agreement. The notice shall indicate that customers' responses may be sent to the Energy Department Manager of the commission or the public counsel within twenty (20) days of the date shown on the notice. A copy of the notice shall be sent to the secretary of the commission and the public counsel. The commission staff and the public counsel shall exchange copies of the customer responses upon their receipt. The public counsel shall file a pleading indicating its agreement or disagreement with the tariff sheet(s) within twenty-five (25) days of the date the tariff sheet(s) is filed, unless a public hearing is requested;

(J) A request for a local public hearing may be filed after the tariff sheet(s) is filed by the steam heating utility. The request shall be filed within twenty (20) days of the filing of the tariff sheet(s) by the steam heating utility. Public counsel shall file a pleading indicating agreement or disagreement with the tariff sheet(s) within seven (7) days after the local public hearing;

(K) An agreement must be reached and tariff sheet(s) filed based upon the agreement within one hundred fifty (150) days from the date the letter initiating the case is filed. This time period may be extended with the consent of the steam heating utility. Written consent for an extension shall be filed; and

(L) If no agreement can be reached between the commission staff and the steam heating utility, the steam heating utility may initiate a standard rate case.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000 and SS for SCS for HB 208, section 1, 92nd General Assembly, 1st Regular Session.