

**MATT BLUNT**

**Secretary of State  
Administrative Rules Division  
RULE TRANSMITTAL**



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

**A.** Rule Number 4 CSR 240-3.190  
 Diskette File Name Rule 240-3.190.doc  
 Name of person to call with questions about this rule:  
 Content Warren Wood Phone 573-751-2978 FAX 573-526-0142  
 Data entry Susan Sundermeyer Phone 573-751-4335 FAX 573-526-9285  
 Email address warrenwood@psc.state.mo.us  
 Interagency mailing address Governor Office Building, 200 Madison St., 7th Floor, Jefferson City, MO  
 Statutory Authority 386.250 & 394.160 Current RSMo date 2000  
 Date filed with the Joint Committee on Administrative Rules Exempt per Sections 536.024 and 536.037, RSMo 2000, and Executive Order No. 97-97 (June 27, 1997)

**B. CHECK, IF INCLUDED:**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> This transmittal completed | <input type="checkbox"/> Incorporation by reference materials, if any |
| <input checked="" type="checkbox"/> Cover letter               | <input type="checkbox"/> Authority with history of the rule           |
| <input checked="" type="checkbox"/> Affidavit                  | <input type="checkbox"/> Public cost                                  |
| <input type="checkbox"/> Forms, number of pages <u>    </u>    | <input type="checkbox"/> Private cost                                 |
| <input type="checkbox"/> Fiscal notes                          | <input type="checkbox"/> Hearing and comment period                   |

**C. RULEMAKING ACTION TO BE TAKEN**

- ☐ Emergency rulemaking, (check one) ☐ rule ☐ amendment ☐ rescission ☐ termination

**MUST include effective date**

- ☒ Proposed Rulemaking (check one) ☐ rule ☒ amendment ☐ rescission  
☐ Order of Rulemaking (check one) ☐ rule ☐ amendment ☐ rescission ☐ termination

**MUST complete page 2 of this transmittal**

- ☐ Withdrawal (check one) ☐ rule ☐ amendment ☐ rescission ☐ emergency  
☐ Rule action notice  
☐ In addition  
☐ Rule under consideration

**D. SPECIFIC INSTRUCTIONS: Please indicate any special instructions (e.g., publication date preference, identify material to be incorporated by reference, or forms included herein).**

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JCAR Stamp

**E. ORDER OF RULEMAKING: Rule Number**

Effective Date for the Order

☐ Statutory 30 days

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 of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. This is not a reprinting of your order, but an explanation of what sections, subsections, etc. have been changed since the original proposed rule was filed.**

**(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer text. DO NOT delete the header, however.)**

**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**  
**KELVIN L. SIMMONS**  
Chair  
**CONNIE MURRAY**  
**STEVE GAW**  
**BRYAN FORBIS**  
**ROBERT M. CLAYTON III**

## *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>**

**ROBERT J. QUINN, JR.**  
Executive Director  
**WESS A. HENDERSON**  
Director, Utility Operations  
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**DONNA M. PRENGER**  
Director, Administration  
**DALE HARDY ROBERTS**  
Secretary/Chief Regulatory Law Judge  
**DANA K. JOYCE**  
General Counsel

October 14, 2003

Matt Blunt  
Secretary of State  
Administrative Rules Division  
600 West Main Street  
Jefferson City, MO 65101

Dear Secretary Blunt:

**RE: 4 CSR 240-3.190 – Reporting Requirements for Electric Utilities and Rural Electric Cooperatives**

### **CERTIFICATION OF ADMINISTRATIVE RULE**

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 on this 10th day of October 2003.

The Missouri Public Service Commission has determined and hereby certifies that this proposed amendment will not have an economic impact on small business. The Missouri Public Service Commission also certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to section 536.017, RSMo 2000 and that this proposed amendment does not constitute a taking of real property under relevant state and federal law.

Statutory Authority: Sections 386.250 and 394.160, RSMo 2000.

If there are any questions regarding the content of the rule, please contact: Dennis L. Frey, 200 Madison Street, Suite 800, P.O. Box 360, Jefferson City, MO 65101, (573) 751-8700, [dennyfrey@psc.state.mo.us](mailto:dennyfrey@psc.state.mo.us).

Sincerely,


**Dale Hardy Roberts**  
Secretary/Chief Regulatory Law Judge

**DHR:DF/sls**

**AFFIDAVIT**

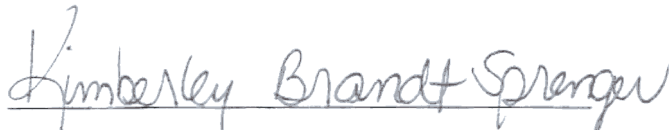
**STATE OF MISSOURI     )**  
**)**  
**COUNTY OF COLE**

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 the **Proposed Amended Rule -- 4 CSR 240-3.190 -- Reporting Requirements for Electric Utilities and Rural Electric Cooperatives**, 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 12<sup>th</sup> day of September, 2003.  
I am commissioned as a notary public within the County of  
Cole, State of Missouri, and my commission expires on  
April 29, 2006.



NOTARY PUBLIC

KIMBERLEY BRANDT SPRENGER  
NOTARY PUBLIC STATE OF MISSOURI  
COLE COUNTY  
MY COMMISSION EXP. APR. 29, 2006

Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT  
Division 240 – Public Service Commission  
Chapter 3 – Filing and Reporting Requirements

**COPY**  
RECEIVED

OCT 14 2003

SECRETARY OF STATE  
ADMINISTRATIVE RULES

**PROPOSED AMENDMENT**

**4 CSR 240-3.190 Reporting Requirements for Electric Utilities and Rural Electric Cooperatives.** The commission is proposing to amend the purpose section and sections (1), (2), (3) and (4) of the rule, add a new section (4) and renumber sections (4), (5), (6), (7) and (8) accordingly.

*PURPOSE: The changes proposed in this amendment update and clarify the reporting requirements for electric utilities. It also adds a reporting requirement for accidents involving any energy supply facility. This requirement applies to both electric utilities and electric cooperatives that serve in the State of Missouri. Terminology referring to the public service commission and electric utilities is changed to be consistent with the definitions in 4 CSR 240-3.010.*

*PURPOSE: This rule prescribes requirements and procedures for the reporting of certain events by [electrical corporations] electric utilities to the [Public Service C]commission to inform the commission of developments which may affect the rendering of safe and adequate service and to enable the commission to thoroughly and fairly investigate certain events, which may have an impact in future electric rate proceedings at the time and in the context in which those events occur. This rule also includes electrical facilities incident reporting requirements for electric cooperatives.*

(1) Commencing on September 1, 1991 every [electrical corporation] **electric utility** [as defined in section 386.020, RSMo, subject to the jurisdiction of the Public Service Commission (PSC)] shall accumulate the following information and transmit it to the manager of the [e]Energy [d]Department of the [PSC] **commission**, or his/her designee, no later than the last business day of the month following the month to be reported and after that on a monthly basis[.].

(A) All generating unit outages and derates, excluding hydroelectric generating units and units whose capacity comprises less than one and one-half percent (1-[ ]1/2%) of the [electrical corporation's] **electric utility's** installed capacity;

(B) All fuel purchases for power production purposes, including the terms of those purchases. A copy of the Monthly Report of Cost and Quality of Fuels for Electric Plants on FERC Form No. 423, as submitted to the Federal Energy Regulatory Commission (FERC), will satisfy the requirements of this subsection;

(C) **Monthly as-burned fuel report for each generating unit, including the amount of each type of fuel consumed, the BTU value of each fuel consumed, and the blending percentages (if applicable)**

(D) **Net system input for the electric utility;**

(E[C]) **Net hourly generation for each generating unit;**

(F[D]) **Megawatt amount and delivery prices of [H]hourly purchases and sales of electricity from or to other [utility companies] electrical services providers, independent power producers or cogenerators, including the parties to purchases and sales, and the terms of purchases and sales;**

**1. If adjustments are made to the price of hourly purchases after the purchase is made, provide the amount of the adjustment and the time period over which the adjustment was made.**

(G[E]) **Capacity purchases of longer than seven (7) days' duration;**

(H[F]) Planned outages of power production facilities, as they are scheduled or rescheduled. Changes from the planned outage schedule must be reported by telephone or electronic transmission to the manager of the energy department of the [PSC] **commission** or his/her designee prior to the initiation of the outage, if the changes result in the planned outage schedule being different from the schedule in the most recently submitted monthly report;

(I[G]) Planned fuel test burns, unit heat-rate tests and accreditation runs as they are scheduled or rescheduled. Changes from previously planned fuel test burns, unit heat-rate tests and accreditation runs must be reported by telephone or electronic transmission to the manager of the E[e]nergy D[d]epartment of the [PSC]**commission** or his/her designee prior to their initiation, if these changes result in the schedule for fuel test burns, unit heat-rate tests and accreditation runs being different from the schedule in the most recently submitted monthly report;

(J[H]) Citations or notices of violation related to power production facilities received from any state or federal utility regulatory agency or environmental agency including, but not limited to, the FERC, the Nuclear Regulatory Commission (NRC), the Environmental Protection Agency (EPA), the Department of Natural Resources (DNR) and the Department of Energy (DOE);

(K[I]) The terms of new contracts or existing contracts which will be booked to Accounts 310-346 or Accounts 502-546 of the FERC's Uniform System of Accounts requiring the expenditure by the [electrical corporation]electric utility of more than [fifty] **one hundred** thousand dollars (\$[5]100,000) including, but not limited to, contracts for engineering, consulting, repairs and modifications or additions to an electric plant; and

(L[J]) Copies of all written reports on forced generating unit outages of longer than three (3) days, test burns of fuel, heat-rate tests, accreditation runs and responses to state or federal utility regulatory agencies or environmental agencies including, but not limited to, the FERC, the NRC, the EPA, the DNR and the DOE, concerning any alleged infractions, deviations or noncompliance with those agencies' rules or standards related to power production facilities.

(2) [The] **Any of the** information required in [sub]section[s] (1)[(C) and (D)] of this rule may be provided to the manager of the [e]Energy [d]Department of the [PSC] **commission** or his/her designee [on computer diskette or by electronic transmission] **in electronic format. The electronic files may be submitted through the commission's Electronic Filing and Information System (EFIS).** [If the information required in subsections (1)(C) and (D) is provided on computer diskette or by electronic transmission, the data reported and the software program used to record the data shall be clearly identified and shall be accompanied by a statement as required in subsection (4)(A) of this rule.]

(3) [In addition to the reporting requirements in sections (1) and (2) of this rule, e]Every [electrical corporation] **electric utility**, as defined in section 386.020, RSMo, subject to the jurisdiction of the PSC, shall report to the manager of the [e]Energy [d]Department of the [PSC] **commission** or his/her designee by telephone or [electronic transmission] **through EFIS** by the end of the first business day following discovery the information described in subsections (3) (A)-(E) below. [If the report is initially made by telephone, t]The electric utility shall submit,[a written description] either by mail or [electronic transmission] **through EFIS** within five (5) business days following the discovery, **an update of the incident and any details not available at the time of the initial report.**

(A) Details of any accident at a power plant involving serious physical injury or death or property damage in excess of [fifty] **one hundred** thousand dollars (\$[5]100,000);

(B) Forced outages of any nuclear generating unit(s) that could reasonably be anticipated to last longer than three (3) days;

(C) Forced outages of any fossil-fuel fired generating unit(s) which constitutes twenty percent (20%) or more of the [electrical corporation's] **electric utility's** accredited capacity that

reasonably could be anticipated to last longer than three (3) days, when the unit(s) is forced out due to a common occurrence;

(D) Reductions of coal inventory below a thirty (30)-day supply and reductions of oil inventory below fifty percent (50%) of normal oil inventory; and

(E) Loss of transmission capability that could limit the output of a generating plant.

(4) Every electric utility and rural electric cooperative shall report to the manager of the Energy Department of the commission or his/her designee, by telephone or through EFIS, a brief description of an accident by the end of the first business day following the discovery of any accident resulting from contact with its energized electrical supply facilities which results in the fatality of an employee or other person, admission to a hospital, ten thousand dollars (\$10,000) in damages to the property of the utility or others or any other accident considered significant by the utility. The electric utility or rural electric cooperative shall submit, either by mail or through EFIS within five (5) business days following the discovery, an update of the incident and any details not available at the time of the initial report.

(5[4]) All reports and information submitted by ~~[electrical corporations]~~**electric utilities and rural electric cooperatives** pursuant to this rule shall be ~~[- (A) S]~~ subscribed by the president, treasurer, general manager, receiver or other authorized representative of the ~~[electrical corporation]~~ **electric utility or rural electric cooperative** having knowledge of the subject matter and shall be stated to be accurate and complete, and contain no material misrepresentations or omissions, based upon facts of which the person subscribing the report or information has knowledge, information or belief.~~]; and]~~ **Any information submitted through EFIS will bear the electronic signature of the utility representative who is submitting it.**

*[(B) Sent to the Energy Department Manager, Public Service Commission, P.O. Box 360, 200 Madison St., Suite 700, Jefferson City, MO 65102 or submitted electronically through the commission's electronic filing system.]*

(6[5]) The reporting requirements prescribed by this rule shall be in addition to all other reporting requirements prescribed by law.

(7[6]) The information contained in the reports filed pursuant to this rule shall be subject to the provisions of section 386.480, RSMo and the use of that information in any proceeding before the commission shall be governed by the terms of any protective order issued by the commission in the proceeding, if a protective order has been issued.

(8[7]) The receipt by the commission or commission staff of reports prescribed by this rule shall not bind the commission or commission staff to the approval or acceptance of, or agreement with any matter contained in the reports for the purpose of fixing rates or in determining any other issue that may come before the commission.

(9[8]) Upon proper application and after notice and an opportunity for hearing, the commission, in its discretion, may waive any provision of this rule for good cause shown.

**AUTHORITY:** *sections 386.250 and 394.160, RSMo 2000. Original rule filed May 1, 2002.*

**PUBLIC COST:** *This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

**PRIVATE COST:** *This proposed amendment will not cost private entities more than five hundred dollars (\$500) 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 amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices on or before December 17, 2003, and should include a reference to Commission Case No. EX-2003-0489. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the Commission's electronic filing and information system at <<http://www.psc.state.mo.us/efis.asp>>. A public hearing regarding this proposed amendment is scheduled for December 30, 2003, at 1:30 p.m. in Room 310 of the Governor Office Building, 200 Madison Street, 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 amendment, 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 or TDD Hotline 1-800-829-7541.*





**Commissioners**  
**KELVIN L. SIMMONS**  
Chair  
**CONNIE MURRAY**  
**STEVE GAW**  
**BRYAN FORBIS**  
**ROBERT M. CLAYTON III**

## Missouri Public Service Commission

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**<http://www.psc.mo.gov>**

**August 7, 2003**

**ROBERT J. QUINN, JR.**  
Executive Director  
**WESS A. HENDERSON**  
Director, Utility Operations  
**ROBERT SCHALLENBERG**  
Director, Utility Services  
**DONNA M. PRENGER**  
Director, Administration  
**DALE HARDY ROBERTS**  
Secretary/Chief Regulatory Law Judge  
**DANA K. JOYCE**  
General Counsel

**Mr. Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**  
**Missouri Public Service Commission**  
**P. O. Box 360**  
**Jefferson City, MO 65102**

**Re: Proposed Amendment to Rule 4 CSR 240-3.190 – Electric Utility Reporting Requirements**

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 current rule requires monthly reporting by electric utilities of certain information concerning power production and power purchases/sales with other providers, as well as the reporting of certain incidents that may occur at power plants. The proposed amendment: a) increases the monthly reporting requirements, b) increases the minimum reportable loss from property damage at power plants, and c) requires the reporting of certain accidents involving any individual as a result of contact with a utility’s energized facilities.

Replacing the existing rule with the proposed amended rule does not implicate the takings clause of the U.S. Constitution, because neither rule involves the taking of real property.

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

Sincerely yours,

**Dennis L. Frey**  
**Senior Counsel**  
**(573) 751-8700**  
**(573) 751-9285 (Fax)**



**Commissioners**  
**KELVIN L. SIMMONS**  
Chair  
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General Counsel

August 7, 2003

**Mr. Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**  
**Missouri Public Service Commission**  
**P. O. Box 360**  
**Jefferson City, MO 65102**

**Re: Proposed Amendment to Rule 4 CSR 240-3.190 – Electric Utility Reporting Requirements**

Dear Mr. Roberts:

Executive Order 96-18 requires state agencies to determine whether a proposed rule-making will have direct economic impact on small businesses of five hundred dollars or more in the aggregate. A small business is defined in the Executive Order as an independently owned and operated business entity that employs fifty or fewer full time employees.

The proposed amendment to the rule: a) broadens present reporting requirements for electric utilities in order to provide more complete information, including an as-burned report for each generating unit and net system input data; b) increases the minimum reportable loss from property damage at power plants; and c) expands the current reporting requirement for incidents occurring at power plants by requiring the reporting of certain accidents involving any individual as a result of contact with a utility's energized facilities. The proposed amendment will not have a direct economic impact on small businesses of at least five hundred dollars in the aggregate.

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

Sincerely yours,

**Dennis L. Frey**  
**Senior Counsel**  
**(573) 751-8700**  
**(573) 751-9285 (Fax)**