

**Robin Carnahan**

Secretary of State  
Administrative Rules Division

**RULE TRANSMITTAL**

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SECRETARY OF STATE  
ADMINISTRATIVE RULES

**COPY**

FILED  
August 2, 2013  
Data Center  
Missouri Public  
Service Commission

Rule Number 4 CSR 240-13.055

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:

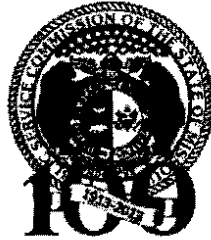
Small Business Regulatory  
Fairness Board (DED) Stamp

SMALL BUSINESS  
REGULATORY FAIRNESS BOARD

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JCAR Stamp

JOINT COMMITTEE ON  
AUG 1 2013  
ADMINISTRATIVE RULES



**Commissioners**

**ROBERT S. KENNEY**  
Chairman

**TERRY M. JARRETT**

**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

August 1, 2013

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

Re: 4 CSR 240-13.055 Cold Weather Maintenance of Service: Provision of Residential Heat-Related Utility Service During Cold Weather

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.

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 Supp. 2012, regarding user fees.

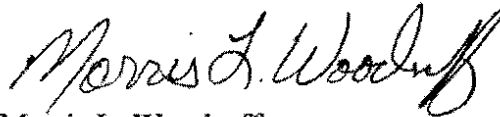
The Public Service Commission has determined and hereby also certifies that this proposed rulemaking complies with the small business requirements of 1.310, RSMo Supp. 2012, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo Supp 2012, by exempting any small business consisting of fewer than fifty 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.

Woodruff  
August 1, 2013  
Certification of Administrative Rule

Statutory Authority: sections 386.250, 393.140, and 393.130 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)

A handwritten signature in black ink, reading "Morris L. Woodruff". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Morris L. Woodruff  
Chief Regulatory Law Judge

Enclosures

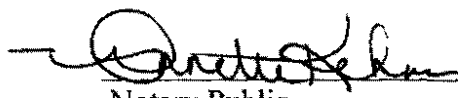
**AFFIDAVIT  
PUBLIC COST**

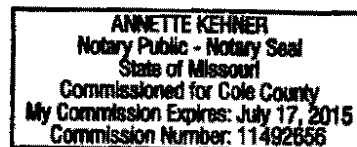
STATE OF MISSOURI )  
                                  )  
COUNTY OF COLE     )

I, Mike Downing, Acting 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 rule, 4 CSR 240-13.055, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

  
\_\_\_\_\_  
Mike Downing  
Acting Director  
Department of Economic Development

Subscribed and sworn to before me this 15<sup>th</sup> day of July, 2013, I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on 17 July 2015.

  
\_\_\_\_\_  
Notary Public



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**Title 4--DEPARTMENT OF  
ECONOMIC DEVELOPMENT  
Division 240--Public Service  
Commission**

SECRETARY OF STATE  
ADMINISTRATIVE RULES

**Chapter 13--Service and Billing Practices for Residential  
Customers of Electric, Gas, Sewer and Water Utilities**

**Proposed Amendment**

**COPY**

**4 CSR 240-13.055 Cold Weather Maintenance of Service: Provision of Residential Heat-Related Utility Service During Cold Weather** The Commission is amending the title of the chapter, sections (14)(F)4, (14)(G)2, and the Authority section.

*PURPOSE: This rule is amended to correct a formatting error in the rule and update the Authority citation contained in the rule.*

**PURPOSE:** This rule protects the health and safety of residential customers receiving heat-related utility service by placing restrictions on discontinuing and refusing to provide heat-related utility service from November 1 through March 31 due to delinquent accounts of those customers. Reporting requirements regarding heat-related utility service are found at 4 CSR 240-3.175 for electric utilities and at 4 CSR 240-3.250 for gas utilities.

(14) This section only applies to providers of natural gas services to residential customers. Other providers of heat-related utility services will continue to provide such service under the terms of sections (1) through (13) of this rule. The provisions of sections (1) through (13) of this rule continue to apply to providers of natural gas service except where inconsistent with the terms of this section.

(F) A gas utility shall be permitted to recover the costs of complying with this section as follows:

1. The cost of compliance with this section shall include any reasonable costs incurred to comply with the requirements of this section;

2. No gas utility shall be permitted to recover costs under this section that would have been incurred in the absence of this section, provided that the costs calculated in accordance with paragraph (14)(F)1. shall be considered costs of complying with this section;

3. Any net cost resulting from this section as of June 30 each year shall accumulate interest at the utility's annual short-term borrowing rate until such times as it is recovered in rates; and

4. No bad debts accrued prior to the effective date of this section may be included in the costs to be recovered under this section, provided that a gas utility may continue to calculate and defer for recovery through a separate Accounting Authority Order the costs of complying with the commission's January 1, 2006 emergency amendment to this rule upon the same terms as set forth herein. The costs eligible for recovery shall be the unpaid charges for new service received by the customer subsequent to the time the customer is retained or reconnected by virtue of this section plus the unpaid portion of the difference between the initial payment paid under this section and the initial payment that could have been required from the customer under the previously enacted payment provisions of section (10) of this rule, as measured at the time of [a] subsequent disconnection for nonpayment or expiration of the customer's payment plan.

(G) A gas utility shall be permitted to defer and recover the costs of complying with this rule through a one (1)-term Accounting Authority Order until such time as the compliance costs are

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included in rates as part of the next general rate proceeding or for a period of two (2) years following the effective date of this amendment:

1. The commission shall grant an Accounting Authority Order, as defined below, upon application of a gas utility, and the gas utility may book to Account 186 for review, audit and recovery all incremental expenses incurred and incremental revenues that are caused by this section. Any such Accounting Authority Order shall be effective until September 30, of each year for the preceding winter;

2. Between September 30 and October 31 each year, if a utility intends to seek recovery of any of the cost of compliance with this section, the utility shall file a request for determination of the cost of compliance with this section for the preceding winter season. The request by the utility shall include all supporting information. All parties to this filing will have no longer than one hundred twenty (120) days from the date of such a filing to submit to the commission their position regarding the company's request with all supporting evidence. The commission shall hold a proceeding where the utility shall present all of its evidence concerning the cost of compliance and other parties, including commission staff, shall present any evidence that the costs asserted by the utility should be disallowed in whole or part. Such a proceeding may be waived by the unanimous request of the parties or by a non-unanimous request without objection. The commission shall establish the amount of costs it determines have been reasonably incurred in complying with this section within one hundred eighty (180) days of the utility's request and such amount will be carried forward into the utility's next rate case without reduction or alteration. Such costs shall be amortized in rates over a period of no greater than five (5) years and shall be recovered in a manner that does not impair the utility's ability to recover other costs of providing utility service. If the commission fails to establish the amount of costs within one hundred eighty (180) days, then the amount requested by the utility shall be deemed reasonably incurred.

3. The commission has adopted the Uniform System of Accounts in 4 CSR 240-4.040. Accounting Authority Orders are commission orders that allow a utility to defer certain expenses to Account 186 under the Uniform System of Accounts for later recovery as determined by the commission in a subsequent general rate case; and

4. Although the Accounting Authority Order allows the gas utility to recover the reasonably incurred expenses only within the context of a general rate case, all such reasonably incurred expenses shall be recovered by the gas utility, together with interest thereon, as set forth above.

**AUTHORITY:** sections 386.250 and 393.140, [RSMo 2000] and 393.130, RSMo [Supp. 2005/2000 as currently supplemented].\* Original rule filed June 13, 1984, effective Nov. 15, 1984. Amended: Filed Dec. 30, 1992, effective Oct. 10, 1993. Amended: Filed March 10, 1995, effective Jan. 30, 1996. Emergency amendment filed Nov. 8, 2001, effective Nov. 18, 2001, expired March 31, 2002. Amended: Filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed April 9, 2004, effective Oct. 30, 2004. Emergency amendment filed Dec. 16, 2005, effective Dec. 26, 2005, expired March 31, 2006. Amended: Filed May 15, 2006, effective Nov. 1, 2006.

\*Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; 393.130, RSMo 1939, amended 1949, 1967, 1969, 2002; and 393.140, RSMo 1939, amended 1949, 1967.

**PUBLIC COST:** *This proposed rule will not cost state agencies or political subdivisions in excess of \$500.00 in total.*

**PRIVATE COST:** *This proposed rule will not cost private entities in excess of \$500.00 in total.*

**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, Morris L. Woodruff, 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 October 7, 2013, and should include a reference to Commission Case No. AX-2013-0091. 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.mo.gov/efis.asp>. A public hearing regarding this proposed rule is scheduled for October 10, 2013, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., 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 or TDD Hotline 1-800-829-7541.*

# **Small Business Regulator Fairness Board**

## **Small Business Impact Statement**

**Date:** September 28, 2012

**Rule Number:** 4 CSR 240-13.055

**Name of Agency Preparing Statement:** Missouri Public Service Commission

**Name of Person Preparing Statement:** Gay Fred

**Phone Number:** 573-751-3160      **Email:** gay.fred@psc.mo.gov

**Name of Person Approving Statement:** Gay Fred

**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).*

During the MPSC's review and work on the proposed rule modifications, the MPSC solicited the involvement of small water and sewer utility businesses to participate in the working group to capture possible differences in compliance and standards. It appears there are no significant differences in compliance, reporting or any other mitigating techniques that would impact small businesses. In addition, all small regulated water and sewer companies today have filed and approved tariffs that have similar language to that of the proposed rule.

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

During the MPSC's review and work on the proposed rule modifications over the last seven years, the MPSC solicited the involvement of electric, gas, small water and sewer utility businesses, to participate in the working group meetings to develop the proposed rule.

**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.**

The proposed rule will have no monetary impact on the MPSC or any other state agency.



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

Small sewer utilities who currently do not fall under the proposed rule regarding residential billing and service standards of the MPSC will be required to comply with the proposed rule, however, currently these small sewer utilities have filed and approved tariffs that generally incorporate the same procedures and practices, it does not appear they will be adversely affected by this proposed rule.

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

There should be minimal if any direct and indirect costs associated with compliance. All small water and sewer utilities currently have filed and approved tariffs that have similar language to that found in the proposed rule.

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

Regulated electric, gas, sewer and water utilities.

**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.*

**MUST BE COMPLETED IN ITS ENTIRETY**

REQUESTED BY

Christine Koenigsfeld

DATE DROPPED OFF

08/02/2013

TIME DROPPED OFF

10:30 am

DEADLINE DATE

08/02/2013

DEADLINE TIME

Close of business

NAME OF DOCUMENT

Proposed Rulemaking filed with SOS - 4 CSR 240-13.060

NUMBER OF PAGES TO BE SCANNED

8

NAME TO SAVE DOCUMENT AS

DOES DOCUMENT NEED COMMITTED TO EFIS?

☒ YES ☐ NO

IF YES, CASE NUMBER OR TRACKING NUMBER

AX-2013-0091

**AFTER SCANNING, ELECTRONIC FILE SHOULD BE E-MAILED TO:**

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DATE FINISHED

TIME FINISHED