

**Robin Carnahan**  
Secretary of State  
Administrative Rules Division

**RULE TRANSMITTAL**

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AUG 01 2013

SECRETARY OF STATE  
ADMINISTRATIVE RULES

FILED  
August 2, 2013  
Data Center  
Missouri Public  
Service Commission

Rule Number 4 CSR 240-13.035

**COPY**

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

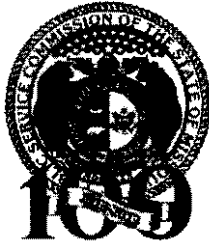
☐ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Small Business Regulatory  
Fairness Board (DED) Stamp  
SMALL BUSINESS  
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE  
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 240-13.035 Denial of Service

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.

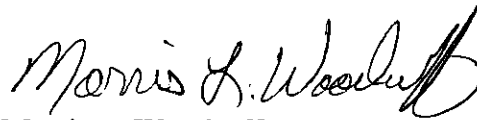
The Public Service Commission has determined and hereby also certifies that this proposed rulemaking complies with the small business requirements of 1.310, RSMo Supp. 2012, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it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

Statutory Authority: sections 386.250, 393.140, and 393.130 RSMo 2000

Woodruff  
August 1, 2013  
Certification of Administrative Rule

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 stylized with a large, sweeping "M" and a long, horizontal stroke at the end.

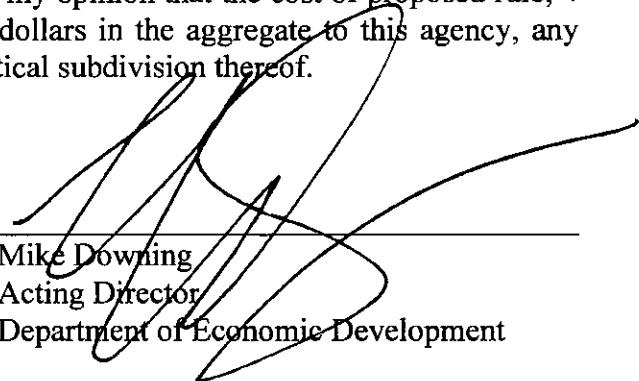
Morris L. Woodruff  
Chief Regulatory Law Judge

Enclosures

**AFFIDAVIT  
PUBLIC COST**

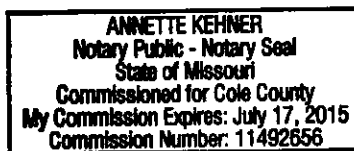
**STATE OF MISSOURI )  
                                  )  
COUNTY OF COLE     )**

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 240-13.035, 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<sup>th</sup> July 2015.

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



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ADMINISTRATIVE RULES

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

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

Proposed Amendment

**COPY**

**4 CSR 240-13.035 Denial of Service** The Commission is amending the title of the chapter, purpose statement, sections (1), (1)(A), (1)(C)1, (1)(C)2, (1)(E), (1)(G), (1)(I), (2), (2)(A), (2)(B), (2)(B)4, and the Authority section; and deleting section (6).

*PURPOSE: This rule is amended to update the rule to incorporate current technology and to clarify and eliminate inconsistencies in order to improve the operation of the rule.*

**PURPOSE:** This rule prescribes conditions under which utilities may refuse to commence service to an applicant for residential service and establishes procedures to be followed by utilities to insure reasonable and uniform standards exist for *[the]* denial of service. This rule also protects an applicant(s) at the time of their application, *[ ]* from being required to pay *[ ]* for the bills incurred by other individuals for service from which the applicant(s) did not receive substantial benefit.

**(1) When the utility refuses to provide service to an applicant for service, the utility shall inform the applicant verbally, if recorded and retained, or written upon applicant request, unless otherwise specified** *[A]* a utility may refuse to commence service to an applicant for any of the following reasons:

(A) Failure to pay a *[n undisputed]* delinquent utility charge for services provided by *[ ]* that utility or by its regulated affiliate. *To be considered to be disputed, the unpaid charge must be the* **that is not** subject *[of an open informal complaint at the commission]* **to dispute under 4 CSR 240-13.045.**

(B) Failure to post a required deposit or guarantee in accordance with 4 CSR 240-13.030 or the utility's tariffs;

(C) Refusal or failure to permit inspection, maintenance, replacement or meter reading of utility equipment. If the applicant does not provide access to the utility for such purposes, the utility shall provide notice to the applicant regarding its need for inspection, maintenance, replacement or meter reading of utility equipment and shall maintain an accurate record of the notice provided.

1. The notice shall include one (1) of the following:

A. Written notice by first class mail sent to the applicant; or

B. Written notice delivered in hand to the applicant; or

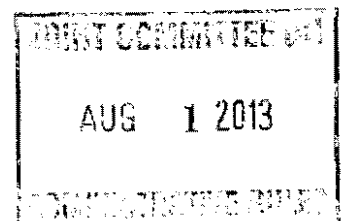
C. At least two (2) telephone call attempts reasonably calculated to reach the applicant; *[or]*

D. *[Written notice in the form of a door hanger left at the applicant's premises.]* **Written notification regarding refusal to provide service.**

2. The notice or information provided shall contain the following information:

A. The name and address of the applicant and the address where service is being requested;

B. How the applicant may comply with the requirements to have service connected;



C. A telephone number the applicant may call from the service location without incurring toll charges and the address of the utility prominently displayed where the applicant may make an inquiry;

D. A statement in Spanish either:

(I) Advising the applicant that if they do not read English, to ask someone who does [ ]to translate the notice for them; or

(II) Advising the applicant to call the utility for assistance if the utility provides telephone assistance in Spanish;

E. If the applicant is unable to resolve the matter satisfactorily with the utility, they may contact the Public Service Commission;

(D) Misrepresentation of identity;

(E) Violation of any other rules of the utility's *[approved by the ]commission-approved tariffs*, which adversely affects the safety of the *[customer]applicant*, or other persons, or the integrity of the utility's system;

(F) As provided by state or federal law;

(G) Failure of a previous owner or occupant of the premises to pay *[a]* delinquent utility charges where the previous owner or occupant remains an occupant;

(H) Failure to comply with the terms of a settlement agreement; or

(I) Unauthorized **use**, interference, or diversion *[of use]* of the utility's service by the applicant, or by a previous owner or occupant who remains an occupant.

(2) A utility *[may]***shall** not refuse to commence service to an applicant for any of the following reasons:

(A) Failure to pay for merchandise, appliances, or services not subject to commission jurisdiction as an integral part of the utility service provided by a utility;

(B) Failure to pay the bill of another customer, unless the applicant who is seeking service received substantial benefit and use of the service to that customer, or unless the applicant is the legal guarantor for a delinquent bill. In this instance, the utility refusing to commence service, shall have the burden of proof to show that the applicant received substantial benefit and use of the service, or that the applicant is the legal guarantor, provided that such burden shall not apply if the applicant refuses to cooperate in providing or obtaining information *[she/he/it does]***the applicant has** or should have regarding the applicant's residence history. To meet that burden the utility must have reliable evidence that:

1. The applicant and that customer resided together at the premises where the bill was incurred and during the period the bill was incurred; and

2. The bill was incurred within the last seven (7) years; and

3. The utility has attempted to collect the unpaid bill from the customer of record; and

4. At the time of the **applicant(s)** request for service, the bill remains unpaid and not in dispute.

*[(6) The requirements of the rule shall be implemented by the utility no later than November 1, 2004.]*

AUTHORITY: sections 386.250(6), *[and ]*393.140(11), *[RSMo 2000]*and 393.130(1), RSMo *[Supp. 2003]***2000 as currently supplemented.**\* Original rule filed Nov. 3, 2003, effective May 30, 2004.

\*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; 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 240-13.035**

**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](mailto: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.*