

Robin Carnahan
Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

RECEIVED

AUG 01 2013

SECRETARY OF STATE
ADMINISTRATIVE RULES

FILED
August 2, 2013
Data Center
Missouri Public
Service Commission

COPY

Rule Number 4 CSR 240-13.050

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, 9th 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:

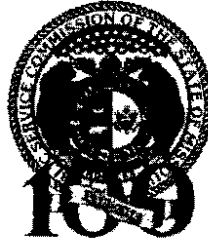
Small Business Regulatory
Fairness Board (DED) Stamp

SMALL BUSINESS
REGULATORY FAIRNESS BOARD

RECEIVED

JCAR Stamp

JOINT COMMITTEE ON
AUG 1 2013
COMMITTEE ON



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 240-13.050 Discontinuance 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 and 393.140 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

A handwritten signature in black ink, appearing to read "Morris L. Woodruff", with a stylized flourish at the end.

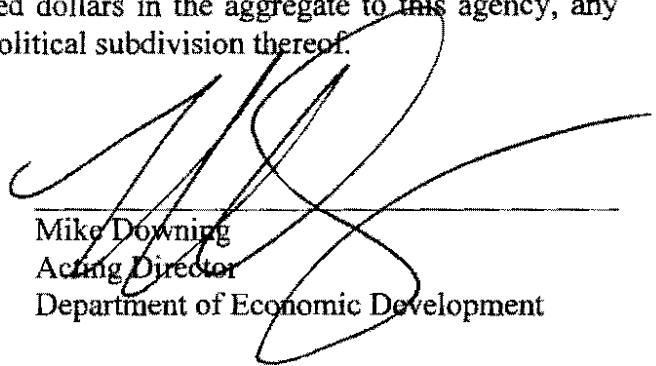
Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

**AFFIDAVIT
PUBLIC COST**

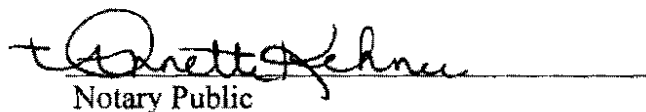
STATE OF MISSOURI)
)
COUNTY OF COLE)

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 240-13.050, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

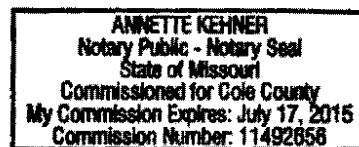


Mike Downing
Acting Director
Department of Economic Development

Subscribed and sworn to before me this 15th 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



RECEIVED

AUG 01 2013

SECRETARY OF STATE
ADMINISTRATIVE SERVICES

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 240-13.050 Discontinuance of Service The Commission is amending the title of the chapter, sections (1)(D), (1)(G), (2)(D), (3), (5), (6)(B), (7), (9), (13) and the Authority section; and renumbering section (8).

PURPOSE: This rule is amended to add sewer utilities and to update the rule to incorporate current technology. This rule will also clarify and provide forms for and terms of discontinuance or reconnection of service due to medical reasons and to eliminate inconsistencies in order to improve the operation of the rule.

PURPOSE: This rule prescribes the conditions under which service to a customer may be discontinued and procedures to be followed by utilities and customers regarding these matters so that reasonable and uniform standards exist for the discontinuance of service.

(1) Service may be discontinued for any of the following reasons:

(C) Water service may be discontinued for nonpayment of a bill for sewer service, either provided by the water utility if it is also the sewer utility, or by the terms of a contract between the water utility and any sewer provider;

([C]D) Unauthorized use, interference, or diversion [or use] of the utility service situated or delivered on or about the customer's premises;

([D]E) Failure to comply with terms of a settlement agreement;

([E]F) Refusal after reasonable notice to permit inspection, maintenance, replacement or meter reading of utility equipment. If the utility has a reasonable belief that health or safety is at risk, notice at the time inspection is attempted is reasonable;

([F]G) Misrepresentation of identity in obtaining utility service;

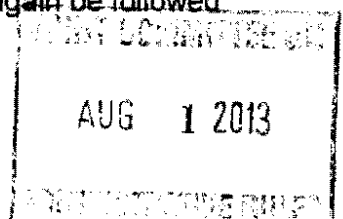
([G]H) Violation of any other rules of the utility approved by the commission which adversely affects the safety of the customer or other persons or the integrity of the utility's system; or

([H]I) As provided by state or federal law.

(2) None of the following shall constitute sufficient cause for a utility to discontinue service:

(D) The failure to pay the bill of another customer, unless the customer whose service is sought to be discontinued received substantial benefit and use of the service billed to the other customer;

(3) On the date specified on the notice of discontinuance or within **[eleven (11) business]thirty (30) calendar** days after that, and subject to the requirements of these rules, a utility may discontinue service to a residential customer between the hours of **[8]7:00 a.m. and [4]7:00 p.m. provided the utility is accessible to receive a restoration of service request at least one (1) hour after the disconnect time frame.** Service shall not be discontinued on a day when utility personnel are not available to reconnect the customer's service, or on a day immediately preceding such a day. After the **[eleven (11) business]thirty (30) calendar** day effective period of the notice, all notice procedures required by this rule shall again be followed before the utility may discontinue service.



(4) Electronic notice may be sent to the customer if the customer has provided prior authorization to the utility to provide billing and notices electronically in place of any written and verbal notices; however, the utility shall provide at least one written notification ninety-six hours prior to discontinuance or by phone call twenty-four (24) hours prior to discontinuance of service.

([4]5) The notice of discontinuance shall contain the following information:

(A) The name and address of the customer and the address, if different, where service is rendered;

(B) A statement of the reason for the proposed discontinuance of service and the cost for reconnection;

(C) The date on or after which service will be discontinued unless appropriate action is taken;

(D) How a customer may avoid the discontinuance;

(E) The possibility of a ~~[settlement]~~payment agreement if the claim is for a charge not in dispute and the customer is unable to pay the charge in full at one (1) time; and

(F) A telephone number the customer may call from the service location without incurring toll charges and the address of the utility prominently displayed where the customer may make an inquiry. Charges for measured local service are not toll charges for purposes of this rule.

([5]6) An electric, gas or water utility shall not discontinue residential service pursuant to section (1) unless written notice by first class mail is sent to the customer at least ten (10) days prior to the date of the proposed discontinuance. Service of notice by mail is complete upon mailing. As an alternative, a utility may deliver a written notice in hand to the customer at least ninety-six (96) hours prior to discontinuance. **Except, a water utility shall not be required to provide notice when discontinuing water service for nonpayment of sewer bill by the terms of a contract between the water utility and any sewer provider, when the sewer provider has duly issued notice of discontinuance of service to its customer. A sewer utility shall not discontinue residential sewer service pursuant to section (1) unless written notice by certified mail return receipt requested is sent to the customer at least thirty (30) days prior to the date of the proposed discontinuance; except:**

(A) A water utility that is also a sewer utility and issues combined water and sewer billing may discontinue residential water service for nonpayment of the portion of a bill that is for residential sewer service after sending notice by first class mail at least ten (10) days prior to the date of the proposed water discontinuance, or hand-delivered notice at least ninety-six (96) hours prior to the proposed water discontinuance, as provided above, in lieu of providing specific notice of discontinuance of sewer service;

(B) A water utility may discontinue residential water service for nonpayment of a bill for residential sewer service from any sewer provider, by the terms of a contract between the water utility and any sewer provider, if the water utility issues sewer billing on behalf of the sewer provider combined with its water billing, after providing notice by first class mail at least ten (10) days prior to the date of the proposed water discontinuance, or hand-delivered notice at least ninety-six (96) hours prior to the proposed water discontinuance, as provided above, in lieu of the sewer provider sending any notice to the customer;

(C) A sewer utility may discontinue residential sewer service by arranging for discontinuance of water service with any water provider, by the terms of a contract between the sewer utility and the water provider, if the water provider issues combined water and sewer billing, after the water provider provides notice by first class mail at least ten (10) days prior to the date of the proposed water discontinuance, or hand-delivered notice at least ninety-six (96) hours prior to the proposed water

discontinuance, as provided above, in lieu of the sewer utility sending any notice to the customer.

(7) A utility shall maintain an accurate record of the date of mailing or delivery. A notice of discontinuance of service shall not be issued as to that portion of a bill which is determined to be an amount in dispute pursuant to sections 4 CSR 240-13.045(5) or (6) that is currently the subject of a dispute pending with the utility or complaint before the commission, nor shall such a notice be issued as to any bill or portion of a bill which is the subject of a settlement agreement except after breach of a settlement agreement, unless the utility inadvertently issues the notice, in which case the utility shall take necessary steps to withdraw or cancel this notice.

(~~6~~8) Notice shall be provided as follows:

(B) At least ten (10) days prior to discontinuance of service for nonpayment of a bill or deposit at a multidwelling unit residential building where each unit is individually metered and for which a single customer is responsible for payment for service to all units in the building or at a residence in which the occupant using utility service is not the utility's customer, the utility shall give the occupant(s) written notice of the utility's intent to discontinue service; provided, however, that this notice shall not be required unless one (1) occupant has advised the utility or the utility is otherwise aware that s/he is not the customer; and

(D) In the case of a multidwelling unit residential building where each unit is individually metered and the utility seeks to discontinue service for any lawful reason to at least one, but not all of the units in the building, and access to a meter that is subject to discontinuance is restricted, such as where the meter is located within the building, the utility may send written notice to the owner/landlord of the building, unit(s) or the owner/landlord's agent ("Owner") requesting the Owner to make arrangements with the utility to provide the utility access to such meter(s). If within 10 days of receipt of the notice, the Owner fails to make reasonable arrangements to provide the utility access to such meter(s) within 30 days of the date of the notice, or if the Owner fails to keep such arrangements, the utility shall have the right to gain access to its meter(s) for the purpose of discontinuing utility service at the Owner's expense. Such expenses may include, but shall not be limited to, costs to pursue court-ordered access to the building, such as legal fees, court costs, sheriff's law enforcement fees, security costs and locksmith charges. The utility's right to collect the costs for entry to its meter will not be permitted if the utility fails to meet the obligation to keep the access arrangements agreed upon between Owner and the utility. Notice by the utility under this section shall inform Owner (a) of the utility's need to gain access to its meter(s) to discontinue utility service to one or more tenants in the building, and (b) of the Owner's liability in the event that Owner fails to make or keep access arrangements. The notice shall state the utility's normal business hours. The utility shall render one or more statements to the Owner for any amounts due to the utility under this section. Any such statement shall be payable by the delinquent date stated thereon, and shall be subject to late payment charges at the same rate provided in the utility's tariff pertaining to general residential service.

(~~7~~9) At least twenty-four (24) hours preceding ~~a~~ discontinuance, a utility shall make reasonable efforts to contact the customer to advise ~~him/her~~ **the customer** of the proposed discontinuance and what steps must be taken to avoid it. Reasonable efforts shall include either a written notice following the notice pursuant to section (4), a doorhanger or at least two (2) telephone call attempts reasonably calculated to reach the customer.

(~~8~~10) Immediately preceding the discontinuance of service, the employee of the utility designated to perform this function, except where the safety of the employee is endangered,

shall make a reasonable effort to contact and identify him/herself to the customer or a responsible person then upon the premises and shall announce the purpose of his/her presence. When service is discontinued, the employee shall leave a notice upon the premises in a manner conspicuous to the customer that service has been discontinued and the address and telephone number of the utility where the customer may arrange to have service restored.

*([9/11) Notwithstanding any other provision of this rule, [a utility shall postpone a discontinuance for a time not in excess of twenty-one (21) days if the discontinuance will aggravate an existing medical emergency of the customer, a member of his/her family or other permanent resident of the premises where service is rendered. Any person who alleges a medical emergency, if requested, shall provide the utility with reasonable evidence of the necessity.]***each utility must defer discontinuance of service or reconnect service under the following terms and conditions.**

(A) The utility shall honor a physician's certificate, or a physician's letter on physician's letterhead providing the same information as requested in the physician's certificate, included herein, which attests to the fact that a residential utility customer or any other permanent resident of the household has a serious medical condition, and clearly states that the discontinuance of that utility's service would rapidly either give rise to a substantial risk of death or gravely impair the health of that person.

(B) A physician, nurse, nurse practitioner, physician's assistant, or other licensed health care professional employed by a public or private agency providing physical or mental health care service may notify the utility in person, by telephone, by fax or by letter that the serious medical condition exists and that discontinuance of that utility's service would rapidly either give rise to a substantial risk of death or gravely impair the health of the residential utility customer or other permanent household resident. If that notice does not meet the requirements of subsection 11(A), then the utility must inform the health care professional that a physician's certificate or physician's letter as set forth in subsection 11(A) is required within fourteen (14) calendar days. The utility may verify notice given by telephone or fax.

(C) When notified under subsection 11(B), a utility shall postpone discontinuance of service for not less than 14 days, pending receipt of the 11(A) notice. When notified under subsection (11)(A), a utility shall postpone discontinuance of service, or continue such postponement, for a total of 28 days from the later of (i) the date set for discontinuance of service, or (ii) the date the utility first received notice under either 11(A) or 11(B).

(D) If the utility receives a notice within 14 days after service was discontinued, the utility shall attempt to reconnect service the same day. If the notice is a 11(A) notice, the utility shall not attempt to discontinue service again for at least 21 days after the first attempt to reconnect. If the notice is a 11(B) notice, the utility shall not attempt to discontinue service again for at least 14 days after the first attempt to reconnect, pending receipt of the 11(A) notice.

(E) The utility must receive a 11(A) notice within fourteen (14) days after being notified according to subsection 11(B). A utility may discontinue service if it does not receive a 11(A) notice within fourteen (14) days after being notified according to 11(B). Therefore failure to receive a 11(A) notice following the 11(B) timeframe does not require the utility to provide repeated notice to the premise for disconnection according to subsection (7).

(F) Upon receipt of an 11(A) notice, the utility shall notify the customer, in writing, of the receipt of the certificate or letter, the date the certificate or letter was received, the date the postponement of discontinuance or attempted reconnection of service was commenced, and the date on which the postponement of discontinuance or reconnection

shall expire. The notice may be delivered by first class mail or hand delivered to an adult person at the residence.

(G) A completed 11(A) notice must be signed by a physician and must be in the following form. The utility shall provide a copy of the physician's certificate form to the physician.

(H) Delaying discontinuance or reconnecting service under subsection (11) does not excuse the customer from having to pay for the service.

(I) The utility may apply the applicable reconnect fees for restoration of service which shall appear on the proceeding month's billing statement.

(J) If discontinuance has been postponed under subsection (11) and the physician's certificate or physician's letter has expired and cause for discontinuance of service still exists, the utility may discontinue service by following the notice requirement of subsection (8), and need not follow the notice requirements of subsection (6). A utility must make best efforts to verify that the physician's letter has expired before disconnecting service under this subsection.

(10/12) Notwithstanding any other provision of this rule, a utility may discontinue residential service temporarily for reasons of maintenance, health, safety or a state of emergency.

(11/13) Upon the customer's request, a utility shall restore service consistent with all other provisions of this chapter when the cause for discontinuance has been eliminated, applicable restoration charges have been paid and, if required, satisfactory credit arrangements have been made. At all times, a **utility shall make** reasonable effort *[shall be made]* to restore service upon the day **service** restoration is requested, and in any event, restoration shall be made not later than the next working day following the day requested by the customer. The utility may charge the customer a reasonable fee for restoration of service, if *[provided]* **permitted** in the utility's approved tariffs.

PHYSICIAN'S CERTIFICATE OF MEDICAL NEED FOR UTILITY SERVICE

The Missouri Public Service Commission requires utilities under its jurisdiction to honor physician's certificates, or a physician's letter on the physician's letterhead, which attests to the fact that a utility customer or any permanent resident of the household has a serious medical condition, and clearly states that the discontinuance of that utility's service would rapidly either give rise to a substantial risk of death or gravely impair the health of the customer or another permanent household resident.

A licensed physician or other licensed health care professional providing health care services to the patient may initially notify the utility of the serious medical condition and substantial risk of death or grave impairment of health resulting from discontinuance of utility service. However, the notice must be followed within fourteen (14) days by the certificate or letter referenced above. The certificate is valid for at least twenty-eight (28) days from the date of first notice.

You are being asked to verify that the stated medical condition exists. This certificate allows the utility customer time to secure payment for utility service or to make alternate arrangements for care of the patient.
Thank you for your cooperation.

To: (Name of Utility)
Date:

I certify that loss of (electric / gas / water/ sewer) utility service would rapidly either give rise to a substantial risk of death or gravely impair the health of my patient,
_____, who lives at _____.

The nature of the serious medical condition is (fill in)_____

The effect of loss of the selected utility service would be (fill in)_____

I am licensed to practice medicine by the Missouri State Medical Board or a comparable licensing authority in the State of _____.

Physician's Signature

Physician Name (Please Print)
Address
Phone Number

AUTHORITY: sections 386.250(6), RSMo [Supp. 1991]and 393.140(11), RSMo [1986]2000 as **currently supplemented.*** Original rule filed Dec. 19, 1975, effective Dec. 30, 1975. Amended: Filed Oct. 14, 1977, effective Jan. 13, 1978. Emergency Amendment filed Jan. 30, 1984, effective Feb. 9, 1984, expired April 1, 1984. Rescinded and readopted: Filed Sept. 22, 1993, effective July 10, 1994.

*Original authority: 386.250(6), RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991 and 393.140(11) 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 240-13.050

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.