

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of a Proposed Amendment)	
to Commission Rule 4 CSR 240-3.130,)	
Filing and Reporting Requirements.)	Case No. EX-2003-0371

STAFF COMMENTS IN SUPPORT OF PROPOSED AMENDMENT
TO RULE 4 CSR 240-3.130

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission"), and states the following in support of the Proposed Amended Rule:

1. Commission rule 4 CSR 240-3.130 currently addresses filing requirements for applications for approval of electric service territorial agreements and references Commission rule 4 CSR 240-3.135 regarding fees. Staff is proposing that rule 4 CSR 240-3.130 be expanded to also address petitions for designation of electric service areas, to require that additional information typically requested during a case proceeding be provided in the application or petition, and to describe the fees associated with these applications or petitions without reference to another rule. Case No. EX-2003-0371 has been assigned to this proceeding.

2. In order to resolve as many of the potential issues as possible before the Commission hearing on May 18, 2005, the Staff arranged and conducted a collaborative meeting with interested parties on April 18, 2005. The existing rule, all changes initially proposed by Staff in the rule version published by the Secretary of State in the Missouri Register on April 1, 2005, and all additional changes proposed by the parties in attendance were discussed.

3. As a result of this collaborative meeting and the negotiations that took place in it, the Staff is proposing that the final rule approved by the Commission include the changes proposed in the version of the rule published in the Missouri Register on April 1, 2005, as additionally modified by the changes attached in Appendix A in order to improve the clarity of the rule. During the meeting, the only problematic objections to the language published on April 1, 2005 were raised by counsel for the rural electric cooperatives. The objections concerned the inclusion of new subsections (1)(E) and (1)(G), which require the reporting of rate comparisons and tax revenue impact, respectively. The Staff elected to retain the language in its proposal because the Commission in past proceedings has requested this information. The Staff believes that the Commission should hear the arguments regarding these provisions prior to determining whether or not the provisions should be included.

4. In Appendix A, bold text is language that was new to the original rule in the version published in the Missouri Register, text in square brackets is language that was deleted from the original rule in the Missouri Register version, underlined text is new language from the April 18th collaborative meeting, and strikeout text is language that is deleted from the version published in the Missouri Register as a result of discussions in the April 18th meeting.

WHEREFORE, Staff respectfully requests that the Commission give due consideration to the comments provided herein.

Respectfully submitted,

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/s/ Dennis L. Frey

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 6th day of May 2005.

/s/ Dennis L. Frey

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

PROPOSED AMENDMENT

4 CSR 240-3.130 Filing Requirements and Schedule of Fees for Applications for Approval of Electric Service Territorial Agreements and Petitions for Designation of Electric Service Areas. The commission is amending the title, Purpose and sections (1) and (2) and adding five (5) new sections.

PURPOSE: The changes proposed in this rule update and clarify the reporting requirements for electric utilities that file territorial agreements. It combines the filing fee requirements currently found in 4 CSR 240-3.135. It also adds petitions for designation of electric service areas to the title to clarify that this rule also applies to these petitions.

*PURPOSE: This rule establishes requirements **and schedule of fees** that applications to the commission for approval of territorial agreements between electric service providers **and petitions for designation of electric service areas** must meet. As noted in the rule, additional requirements pertaining to such applications are set forth in 4 CSR 240-2.060(1) [and 4 CSR 240-3.135].*

(1) In addition to the requirements of 4 CSR 240-2.060(1), applications for commission approval of territorial agreements ~~[between electric service providers]~~ and petitions for designation of electric service areas shall include:

(A) ~~[A copy of the territorial agreement and a s]~~A copy of the proposed territorial agreement and a specific designation of the ~~requested~~ boundaries, ~~[including]~~ including a map showing the ~~requested~~ boundaries, and the legal description of the area that is the subject of the ~~application or petition~~territorial agreement or petition for designation of electric service areas;

(B) A list of other electric utilities that serve in the affected area(s), if any;

~~— [(B)]~~(C) An illustrative tariff which reflects any changes in a regulated utility's operations or certification;

~~[(C)]~~(D) An explanation as to why the territorial agreement is not detrimental to the public interest or ~~the~~ proposed electric service area designation(s) is in the public interest;

~~— (E)~~ A comparison of electric rates if the territorial agreement or the proposed electric service area designation(s) includes an exchange of customers; ~~(an area to bring to the Commission's attention...)~~

~~[(D)]~~(F) A list of all persons and structures whose utility service would be changed by the proposed agreement at the time of filing ~~[agreement]~~ application or petition; and

~~[(E)~~ A check for the initial filing fee set forth in 4 CSR 240-3.135.]

(G) A statement of the impact, if any, that the territorial agreement or proposed electric service area designation(s) will have on the tax revenues of the political subdivisions in which any structures, facilities or equipment of the utilities involved are located. ~~— (an area to bring to the Commission's attention...)~~

~~(2) Applications for commission approval of territorial agreements shall also include a copy of the territorial agreement.~~

~~— [(2)]~~(23) If any of the ~~[items]~~ information required by subsections (1)(A)–~~[(D)]~~(G) of this rule ~~[are]~~ is unavailable at the time the application is filed, ~~[they]~~ the application must be accompanied by a statement of the reasons the information is currently unavailable and a date by which it will be furnished. All required information shall be furnished prior to the granting of the authority sought.

~~(34)~~ The application or petition shall be accompanied by an initial filing fee in the amount of five hundred dollars (\$500).

~~— (4A)~~ An application for commission review of proposed amendment(s) to an existing territorial agreement between electric service providers shall not be subject to the fee of five hundred dollars (\$500). However, the applicants shall be responsible for the payment of a fee which reflects necessary hearing time (including the minimum hearing time charge) and the transcript costs as specified in section (5) of this rule.

(5) In addition to the filing fee, the fee for commission review is set at six hundred eighty-five dollars (\$685) per hour of hearing time, subject to a minimum charge for hearing time of six hundred eighty-five dollars (\$685). There is an additional charge of three dollars and fifty cents (\$3.50) per page of transcript. These fees are in addition to the fees authorized by section 386.300, RSMo.

(6) The parties shall be responsible for payment of any unpaid fees on and after the effective date of the commission's report and order relating to the electric territorial agreement or petition for designation of service areas. The executive director shall send an itemized billing statement to the applicants on or after the effective date of the commission's report and order. Responsibility for payment of the fees shall be that of the parties to the proceeding as ordered by the commission in each case.

(7) On July 1 of each year, the filing fee and the fee per hour of evidentiary hearing time ~~may~~^{will} be modified to match any percentage change in the Consumer Price Index for the twelve (12)-month period ending December 31 of the preceding year.

AUTHORITY: sections 386.250[, 386.800] and 394.312, RSMo 2000. Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Feb. 24, 2005.

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: 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 May 9, 2005, and should include a reference to Commission Case No. EX-2003-0371. 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 May 18, 2005, at 10:00 a.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.

APPENDIX A