

**PSC Staff "Markup" Showing Proposed Changes**

**Deletions shown in red/bold/strikethrough font**

**Additions shown in blue/bold/underline font**

**4 CSR 240-3.050 Small Utility Rate Case Procedure**

*PURPOSE: This rule provides procedures whereby certain small utilities may request increases in their overall annual operating revenues, without complying with the rules pertaining to general rate cases set forth elsewhere in this chapter.*

(1) Notwithstanding the provisions of any other commission rule to the contrary, a gas utility serving ten thousand (10,000) or fewer customers, a water or sewer utility serving eight thousand (8,000) or fewer customers, or a steam heat utility serving fewer than one hundred (100) customers shall be considered a small utility under this rule.

(2) A small utility may initiate a rate case by filing a letter requesting an increase in its overall annual operating revenues with the secretary of the commission. A utility filing such a request shall specify the amount of the revenue increase that it is seeking, but shall not submit any proposed tariff revisions with the request. A utility that provides service in multiple, non-interconnected service areas or that provides more than one kind of utility service may only submit a company-wide request applicable to all of its services in all of its service areas.

(3) When a small utility's letter is filed, the secretary ~~will~~shall cause a rate case to be opened, but no specific actions shall be taken in that case, pending completion of the process set out in this rule, including the possible mediation or arbitration of issues among the parties. The regulatory law judge assigned to the case may be asked at any time to mediate disputes that may arise while the case is pending. If the commission staff (staff) and the utility do not reach agreement on a full resolution of the utility's revenue increase request, they may elect to arbitrate unresolved issues. Such arbitration will allow the utility, the staff and the public counsel to present their positions on the unresolved issues to the regulatory law judge, who ~~will~~shall establish, on a case-by-case basis, procedures for identification and submission of issues and the presentation of the parties' positions. Parties need not be represented by counsel during arbitration, and each issue will be determined using the "final offer" method, under which the position of one of the parties will be adopted based upon the evidence presented and commission precedent. The regulatory law judge ~~will~~shall issue a written opinion resolving all issues presented for arbitration within twenty (20) days of the close of the arbitration proceeding. The arbitration decision and any partial, unanimous or non-unanimous disposition agreement will be submitted to the commission for its consideration in issuing its decision regarding the resolution of the utility's revenue increase request.

(4) If it is found that a utility was not current on the payment of all of its commission assessments, the submission of its most recently required commission annual report or annual statement of operating revenue, or that it was not in good standing with the Missouri secretary of state, if applicable, at the time it filed its request then the commission may dismiss the case. The commission may also dismiss the case at any time if the utility fails to be in current compliance regarding commission assessments, annual reports or annual statements of operating revenue, fails to remain in good standing with the Missouri secretary of state, if applicable, or fails to timely provide the staff or the public counsel with the information needed to investigate the utility's request.

Staff Exhibit No. 1  
Case No(s) AX-2005-0363  
Date 1-16-08 Rptr KF



(5) Within one (1) week after a case is opened, the staff shall file a timeline under which the case will proceed, specifying, at a minimum, due dates for the activities required by sections (9), (10) and (11).

(6) After a case is opened, the staff shall, and the public counsel may, conduct an investigation of the utility's request. This investigation may include a review of any and all information and materials related to the utility's cost of providing service and its operating revenues, the design of the utility's rates, the utility's service charges or fees, all provisions of the utility's tariffs, and any operational or customer service issues that are discovered during the investigation. If the public counsel wishes to conduct an independent investigation of the request, it must do so in a time frame that will not result in a delay in the utility's and the staff's resolution of the utility's request.

(7) No later than thirty (30) days after a case is opened, the utility shall mail written notice of the request to each of its customers. The notice, which must be approved by the staff and the public counsel prior to being mailed, shall invite the customers to submit comments about the utility's rates and quality of service within thirty (30) days after the date shown on the notice, and shall include instructions as to how comments can be submitted electronically, by telephone or in writing. When the utility mails the notice to its customers, it shall also send a copy to the staff and the staff shall file a copy in the case file. For small steam heating utility requests, the notice shall also be sent to each gas service and each electric service provider in the area affected by the request.

(8) For small steam heating utility requests, any customer, gas service provider or electric service provider that timely responds to the notice required by section (7) shall be entitled to copies of all filings subsequently made in the utility's case, except that information classified as highly confidential or proprietary will only be available under the terms of a commission issued protective order, and may participate in any conferences or hearings related to the case.

(9) No later than ninety (90) days after a case is opened, the staff shall provide a preliminary report of its investigation and audit to the utility and the public counsel.

(10) No later than one hundred twenty (120) days after a case is opened, the staff shall provide a settlement proposal to the utility and the public counsel. This proposal shall include the staff's recommended changes pertaining to the following: the utility's annual operating revenues; the utility's customer rates; the utility's service charges and fees; the utility's plant depreciation rates; the utility's tariff provisions; the operation of the utility's systems; and the management of the utility's operations. The staff shall also provide the following with its settlement proposal: draft revised tariff sheets reflecting the staff's recommendations; a draft disposition agreement reflecting the staff's recommendations; its audit workpapers; its rate design workpapers; and any other documents supporting its recommendations. A disposition agreement is a document that sets forth the signatories' proposed resolution of some or all of the issues pertaining to the utility's revenue increase request.

(11) No later than one hundred fifty (150) days after a case is opened, the staff shall file a disposition agreement between at least the staff and the utility providing for a full or partial resolution of the utility's revenue increase request. At any time prior to ~~this~~the filing of the disposition agreement, the assigned regulatory law judge may be called upon to meet with the participants and mediate discussions to assist them in reaching at least a partial agreement. If the disposition agreement filed by the staff provides for only partial resolution of the utility's request, it may contain provisions whereby the signatories request that the assigned regulatory law judge initiate an arbitration procedure regarding unresolved issues identified in the agreement.



(12) The staff and the small utility may agree that the deadlines set out in sections (9), (10) and (11) be extended for up to two (2) months. If an extension is agreed upon, the staff shall file a written agreement regarding the extension and an updated timeline reflecting the extension in the case file.

(13) If the disposition agreement filed by the staff provides for a full resolution of the utility's request and is executed by the utility, the staff and the public counsel, the utility shall file new and/or revised tariff sheets, bearing an effective date that is not fewer than thirty (30) days after they are filed, to implement the agreement. In such a situation, a local public hearing will not be held unless ordered by the commission.

(14) If the disposition agreement filed by the staff provides for a full resolution of the utility's request but is executed by only the utility and the staff, the utility shall file new and/or revised tariff sheets, bearing an effective date that is not fewer than forty-five (45) days after they are filed, to implement the agreement. No later than five (5) working days after it makes its tariff filing, the utility shall mail written notice of the proposed tariff revisions, including a summary of the proposed rates and charges and the impact of the rates on an average residential customer's bill, to each of its customers. The notice must be approved by the staff and the public counsel prior to being mailed, shall invite customers to submit comments on the proposed tariff changes within twenty (20) days after the date of the notice, and shall include comment submission instructions as described in section (7). When the utility mails the notice to its customers, it shall also send a copy to the staff and the staff shall file a copy in the case file.

(15) No later than five (5) working days after the end of the comment period for the notice referenced in section (14), the public counsel shall file a pleading stating its position regarding the utility/staff agreement and the related tariff revisions, or requesting that the commission hold a local public hearing or an evidentiary hearing, and providing the reasons for its position or request.

(16) If the disposition agreement filed by the staff provides for only a partial resolution of the utility's request and for the use of an arbitration process to resolve specified issues, the utility shall file new and/or revised tariff sheets, bearing an effective date that is not fewer than forty-five (45) days after they are filed, that reflect the terms of the agreement and its position on the issues to be arbitrated. No later than five (5) working days after it makes its tariff filing, the utility shall mail written notice of the proposed tariff revisions, including a summary of the proposed rates and charges and the impact of the rates on an average residential customer's bill, to each of its customers. The notice must be approved by the staff and the public counsel prior to being mailed, shall invite customers to submit comments on the proposed tariff changes within twenty (20) days after the date of the notice, and shall include comment submission instructions as described in section (7). When the utility mails the notice to its customers, it shall also send a copy to the staff and the staff shall file a copy in the case file.

(17) No later than five (5) working days after the end of the comment period for the notice referenced in section (16), the public counsel shall file a pleading stating its position regarding the utility/staff agreement and the related tariff revisions, and providing the reasons for its position, and stating whether it will participate in the proposed arbitration process. The public counsel's request for a local public hearing or an evidentiary hearing, and the reasons for its request, shall also be included in this pleading.

(18) If a local public hearing is set, the utility shall mail written notice of that hearing to its customers. The notice must be consistent with the order setting the hearing and must be approved by the staff and the public counsel before it is mailed. When the utility mails the ~~approved~~-notice to its customers, it shall also send a copy to the staff and the staff shall file a copy in the case file.



(19) If a local public hearing is held, the staff shall file a pleading no later than five (5) working days after the hearing indicating whether any material information not previously available was provided at the local public hearing and stating whether that information might result in changes to the utility/staff disposition agreement. No later than ten (10) working days after the local public hearing, the public counsel shall file a pleading stating its position regarding the utility/staff agreement and the related tariff revisions, or requesting that the commission hold an evidentiary hearing, and providing the reasons for its position or request.

(20) If the public counsel files a request for an evidentiary hearing, the request shall include a specified list of issues that the public counsel believes should be the subject of the hearing. The utility's pending tariff revisions shall then be suspended, and the utility's case shall be resolved through contested case procedures conducted in the time remaining in the rate case process, consistent with the requirements of section ~~(25)~~(24), the requirements of due process, and fairness to the participants in the matter and the utility's ratepayers.

(21) If at any time after a case is opened it becomes clear to the utility or the staff that agreements cannot be reached on even a portion of the issues related to the utility's request, even through the use of mediation or arbitration, either may file a motion asking that the utility's request be resolved through contested case procedures conducted in the time remaining in the rate case process, consistent with the requirements of section ~~(25)~~(24), the requirements of due process, and fairness to the participants in the matter and the utility's ratepayers.

~~(22) The commission may approve, reject or alter a disposition agreement, or an arbitration opinion and any related partial disposition agreement.~~

~~(23)~~(22) If the commission approves tariff revisions resulting from a small utility rate case, the utility shall mail written notice of that approval, including a summary of the revised rates and charges and the impact of the revised rates on an average residential customer's bill, to each of its customers. The notice must be approved by the staff and the public counsel prior to being mailed and shall be mailed to the customers prior to or with the first billing issued under the revisions. When the utility mails the notice to its customers, it shall also send a copy to the staff and the staff shall file a copy in the case file.

~~(24)~~(23) If at any time after a case is opened the utility and the staff agree that an increase in the utility's annual operating revenues is not necessary, or if the utility advises the staff that it no longer wishes to pursue an increase, the staff shall file a verified statement to that effect in the case file, whereupon the regulatory law judge shall issue a notice closing the case.

~~(25)~~(24) The proposed full resolution of a small utility rate case must be finally presented to the commission no later than nine (9) months after the case is opened, regardless of how it is presented, and the commission's decision and order regarding the case will~~shall~~ be issued and effective no later than eleven (11) months after the case was opened. ~~The commission shall set just and reasonable rates, which may result in a revenue increase more or less than the increase originally sought by the utility, or which may result in a revenue decrease.~~

(25) The commission shall set just and reasonable rates, which may result in a revenue increase more or less than the increase originally sought by the utility, or which may result in a revenue decrease. In doing so, the commission may approve, reject or alter a disposition agreement, or an arbitration opinion and any related partial disposition agreement.