

## **APPENDIX A**

### *4 CSR 240-50.050*

*PURPOSE: This rule allows the establishment of an Environmental Cost Adjustment Mechanism, which allows periodic rate adjustments to reflect net increases or decreases in a water utility's prudently incurred costs directly related to compliance with federal, state, or local environmental law, regulation, or rules.*

(1) Definitions. As used in this rule, the below listed terms are defined as follows:

- (A) Water Utility means a water corporation as defined in section 386.020(59), RSMo, subject to commission regulation pursuant to Chapters 386 and 393, RSMo;
- (B) Environmental Cost Adjustment Mechanism (ECAM) means a mechanism established in a general rate proceeding that allows periodic rate adjustments, outside a general rate proceeding, to reflect the net increases or decreases in a water utility's prudently incurred environmental costs;
- (C) ECAM Qualifying environmental Costs means prudently incurred costs, both capital and expense, occurring after the later of the last day of the test year or last day of the true-up period in a Water Utility's most recent rate case, that resulted from: (i) the imposition of any federal, state or local law (including, without limitation, common law, statutes, ordinances, or regulations) pertaining to the regulation or protection of health, safety, and the environment for which compliance is required after the later of the last day of the test year or last day of the true-up period in the Company's most recent rate case; or (ii) any permit, license, agreement, or order developed or issued for which compliance is required after the last day of the test year or last day of the true-up period in the Company's most recent rate case in response to any federal, state or local law (including, without limitation, common law, statutes, ordinances, or regulations) pertaining to the regulation or protection of health, safety, and the environment; or (iii) changes in the natural environment beyond the water utility's control that cause non-compliance with any federal, state law, local law (including, without limitation, common law, statutes, ordinances, or regulations) or permit, license, agreement or order pertaining to the regulation or protection of health, safety, and the environment.
- (D) General rate proceeding means a general rate proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs, or rates and charges, of the water utility are considered by the commission;
- (E) Staff means the staff of the Public Service Commission.

(2) Applications to Establish, Modify or Discontinue an ECAM. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 386.266, RSMo, only a water utility, in a general rate proceeding, may file an application with the commission to establish, modify or discontinue an ECAM by filing tariff schedules. Any party in a general rate proceeding in which an ECAM is proposed or in effect may seek to modify the proposed or existing ECAM. After a full hearing in a general rate proceeding, the

## **APPENDIX A**

commission shall approve or modify the application to establish an ECAM. The final approved ECAM shall be designed to permit the water utility to make periodic rate adjustments to its rate schedules outside of a general rate proceeding to reflect changes in its environmental costs as defined in Section (1)(C).

(A) The ECAM shall be based on known and measurable ECAM Qualifying Environmental Costs as defined in Section (1)(C).

(B) The Water Utility shall include in its initial notice to customers regarding the general rate case in which an ECAM is first proposed, a commission-approved description of how the Water Utility proposes that the ECAM would operate.

- (3) Periodic Adjustments of ECAMs. If a Water Utility files proposed rate schedules to establish or adjust its ECAM rates between general rate proceedings, the staff shall examine and analyze the information filed by the Water Utility and additional information obtained through discovery, if any, to determine if the proposed ECAM rate adjustment is in accordance with the provisions of this rule, section 386.266, RSMo, and the ECAM established in the Water Utility's most recent general rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the Water Utility files its tariff schedules to adjust its ECAM rates. If the staff determines that the ECAM rate adjustment is in accordance with the provisions of the rule, section 386.266, RSMo, and the ECAM established in the Water Utility's most recent general rate proceeding, the commission shall either issue an interim rate adjustment order approving the tariff schedules and the ECAM rate adjustments within sixty (60) days of the Water Utility's filing or, if no such order is issued, the tariff schedules and ECAM rate adjustments shall take effect sixty (60) days after the tariff schedules were filed. If the staff determines that the ECAM rate adjustment is not in accordance with the provisions of this rule, section 386.266, RSMo, or the ECAM established in the Water Utility's most recent rate proceeding and the Water Utility agrees with the staff's determination, the commission shall reject the rate schedules proposed in the Water Utility's filing and shall instead order implementation of appropriate tariff schedules and ECAM rate adjustments taking into consideration staff's determinations, with the tariff schedules and ECAM rate adjustments to be effective within sixty (60) days after the tariff schedules were filed. If the staff determines that the ECAM rate adjustment is not in accordance with the provisions of this rule, section 386.266, RSMo, and the ECAM established in the water utility's most recent general rate proceeding and the water utility disagrees with the staff's determination, the commission shall reject the rate schedules proposed in the Water Utility's filing, order implementation of an appropriate interim ECAM rate schedule and shall schedule an evidentiary hearing to be held within sixty (60) days after the tariff schedules were filed. After conclusion of the evidentiary hearing, the commission shall either issue a rate adjustment order approving the tariff schedules as filed or shall reject the proposed rate schedules of the Water Utility's filing and shall instead order implementation of an appropriate rate schedule taking into consideration evidence presented in the evidentiary hearing to be effective within ninety (90) days after the tariff schedules were filed.

## **APPENDIX A**

- (A) The ECAM rate adjustment shall reflect a comprehensive measurement of changes in revenue requirement due to any federal, state or local laws, permits, licenses, agreements, or orders that impact ECAM Qualifying Environmental Costs as defined in Section (1)(C) in either a positive or negative manner.
  - (B) Any periodic adjustment made to ECAM rate schedules shall not generate an annual amount of general revenue that exceeds two and one-half percent (2.5%) of the Water Utility's Missouri gross jurisdictional revenues established in the Water Utility's most recent general rate proceeding.
    - 1. Missouri gross jurisdictional revenues shall be the amount established in the Water Utility's most recent general rate proceeding and shall exclude gross receipts tax, sales tax, and other similar pass-through taxes not included in tariffed rates for regulated services;
    - 2. The Water Utility shall be permitted to collect any applicable gross receipts tax, sales tax, or other similar pass-through taxes and such taxes shall not be counted against the two and one-half percent (2.5%) rate adjustment cap; and
    - 3. Any environmental costs, to the extent addressed by the ECAM, not recovered as a result of the two and one-half percent (2.5%) limitation on rate adjustments, including depreciation and property taxes related to capital investments, may be deferred at a carrying cost each month equal to the Water Utility's net of tax cost of capital, for recovery in a subsequent ECAM periodic adjustment or in the Water Utility's next general rate proceeding. The Water Utility's net of tax cost of capital shall be equal to the Company's allowance for funds used during construction rate.
  - (C) A Water Utility with an ECAM shall file no more than two requests for adjustment to its existing ECAM in each twelve month period following the effective date of the commission order approving an ECAM.
- (4) True-ups of an ECAM. A Water Utility that files for an ECAM shall include in its tariff schedules, provisions for true-ups that shall accurately and appropriately remedy any over-collection or under-collection through subsequent rate adjustments or refunds.
- (A) The subsequent true-up rate adjustments or refunds shall include interest at the Water Utility's short-term borrowing rate. The interest rate on accumulated ECAM under-collections or over-collections shall be calculated on a monthly basis for each month the ECAM rate is in effect, equal to the weighted average interest rate paid by the Water Utility on short-term debt for that calendar month. This rate shall then be applied to a simple average of the same month's beginning and ending cumulative ECAM over-collection or under-collection balance. Each month's accumulated interest shall be included in the ECAM over-collection or under-collection balances on an ongoing basis.
  - (B) The true-up adjustment shall be the difference between the revenue collected and the revenue authorized for collection during the true-up period and billed revenues associated with the ECAM during the true-up period.

## **APPENDIX A**

- (5) Duration of ECAMs and Requirement for General Rate Case. Once an ECAM is approved by the commission, it shall remain in effect for a term of not more than four (4) years unless the commission earlier authorizes its modification, extension or discontinuance in a general rate proceeding. A Water Utility may submit proposed rate schedules to implement periodic adjustments to its ECAM rate between general rate proceedings. If an ECAM expires due to the four (4) year limitation, a Water Utility is not prohibited from requesting establishment of a new ECAM in connection with a subsequent rate case.
- (A) If the commission approves an ECAM for a Water Utility, the Water Utility must file a general rate case with the effective date of new rates to be no later than four (4) years after the effective date of the commission order implementing the ECAM, assuming the maximum statutory suspension of the rates so filed.
- (B) The four (4)- year period shall not include any periods in which the Water Utility does not collect any charges under the ECAM, or any period for which charges collected under the ECAM must be fully refunded.
- (6) Disclosure on Customers' Bills. Any amounts charged under an ECAM approved by the commission shall be separately disclosed on each customer's bill. Proposed language regarding this disclosure shall be submitted to the commission for the commission's approval.