

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

In the Matter of the Establishment of a Working)
Case for the Writing of a New Rule on the Treatment)
of Customer Information by Commission Regulated) **File No. AW-2018-**
Electric, Gas, Steam Heating, Water, and Sewer)
Utilities and Their Affiliates and Nonaffiliates)

STAFF MOTION TO ESTABLISH WORKING CASE

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through Staff Counsel’s Office, and moves the Commission to establish a working case, for the writing of a draft potential new rule on the treatment of customer information by Commission regulated electric, gas, heating, water, and sewer utilities and their affiliates and nonaffiliates. In support of its Motion, the Staff states as follows:

1. Presently the Commission has a section in its Affiliate Transactions Rules for electrical corporations, gas corporations (including those engaged in gas marketing), and heating companies that addresses, among other things, making available to affiliated or unaffiliated entities specific customer information. The Commission has no similar section regarding the treatment of customer information for water corporations or sewer corporations.

2. Pursuant to Executive Order 17-03, in the last year Staff has undertaken a review of all of the Commission’s rules, and identified areas where the Commission’s rules could be consolidated, streamlined, or otherwise improved for user-friendliness. The Staff is of the opinion that in the area of the treatment of customer information, there is an opportunity to make the Commission’s rules clearer and easier to use. Presently, the Commission’s rules on the matter of the treatment of specific

customer information being made available to affiliates and nonaffiliates, among other things, appear at:

- A. 4 CSR 240-20.015(2)(C) Electrical Corporation Affiliate Transactions
- B. 4 CSR 240-40.015(2)(C) Gas Corporation Affiliate Transactions
- C. 4 CSR 240-80.015(2)(C) Heating Company Affiliate Transactions
- D. 4 CSR 240-40.016(3)(C) Gas Marketing Affiliate Transactions Rule

3. Although the present version of the section on the treatment of customer information appears in the separate industry specific affiliate transactions rules, the content of the section on the treatment of customer information does not differ by utility industry. Staff has redrafted the section on the treatment of customer information into a single rule by itself specifically addressing an array of situations when affiliates or nonaffiliates may be sought to be entrusted with customer information for a business purpose by a Commission regulated utility. These situations previously existed; they just were not specifically denominated by the customer information section of the Commission's rules.

4. The Staff requests that the Commission issue an order requesting comments to be filed within 30 days after the date of the Commission's Order establishing a working case and seeking comments on the draft potential new rule on the treatment of customer information (Attachment A) and the rescission of the Commission's existing rules noted above which contain a section on the treatment of customer information by electrical corporations, gas corporations (including those engaged in gas marketing), and heating companies (Attachment B).

5. The Staff requests that the Commission serve its Order Establishing Working Case on all counsel of record for electrical corporations, gas corporations,

heating companies, water corporations, and sewer corporations regulated by the Commission, and also the Public Counsel, and if possible, all intervenors in the most recent rate cases of these electric and gas companies.

WHEREFORE, the Staff moves the Commission to open a working case and issue an Order requesting comments within 30 days after the date of said Order addressing the consideration of a draft potential new rule on the treatment of customer information and the rescission of the Commission's existing rules which include a specific section addressing the treatment of customer information by electrical corporations, gas corporations, heating companies, water corporations, and sewer corporations regulated by the Commission.

Respectfully submitted,

/s/ Mark Johnson

Mark Johnson
Senior Counsel
Missouri Bar No. 64940
P.O Box 360
Jefferson City, Missouri 65102
Phone: (573) 751-7431
Fax: (573) 751-9285
mark.johnson@psc.mo.gov

/s/ Steven Dottheim

Steven Dottheim
Chief Deputy Staff Counsel
Missouri Bar No. 29149
P. O. Box 360
Jefferson City, MO 65102
Phone: (573) 751-7489
Fax: (573) 751-9285
E-mail: steve.dottheim@psc.mo.gov

Attorneys for the Staff of the
Missouri Public Service Commission

4 CSR 240-10.XXX Customer Information Of Electrical Corporations, Gas Corporations, Heating Companies, Water Corporations and Sewer Corporations

PURPOSE: This rule is intended to prevent the misuse of customer information. All matters regarding treatment of customer information and release of specific customer information to an affiliate or a third party nonaffiliate respecting the provision of utility related services may occur without customer consent but must be a matter of written contract between the regulated electrical corporation, gas corporation, heating company, water corporation and sewer corporation (covered utility) and the affiliate or third party nonaffiliate pursuant to the conditions set out in the rule below. All matters regarding treatment of customer information and release of specific customer information to an affiliate or a third party nonaffiliate respecting the provision of a nonutility related service must be limited to situations where there is documented recorded or written customer consent and a written contract between the covered utility and the affiliate or the third party nonaffiliate.

(1) Definitions

(A) Covered utility means, for purposes of this rule, an electrical corporation, gas corporation, heating company, water corporation, or sewer corporation as defined in section 386.020, RSMo., and subject to commission regulation pursuant to Chapters 386 and 393, RSMo.,

(B) Customer information means a subset of information in general, and includes but is not limited to one or more of the following items of one or more customers on the system of a covered utility that is identifiable with one or more particular customers: name, address, phone number, social security number, utility service usage, payment history, financial account,

driver's license number, medical information, and health insurance information. Customer information includes information provided to a covered utility by an affiliated or nonaffiliated third party person, entity, or association.

(C) Information means any data obtained by a covered utility that is not obtainable by nonaffiliated entities or can only be obtained at a competitively prohibitive cost in either time or resources.

(2) Utility Related Services

(A) When any covered utility contracts with an affiliate or a third party nonaffiliate to perform a utility related service on behalf of the covered utility and specific customer information to perform the utility related service is required, the covered utility will provide the affiliate or third party nonaffiliate with the necessary specific customer information without customer consent under the following contractual terms:

1. The affiliate or third party nonaffiliate shall be directed that the specific customer information remains the sole property of the covered utility;
2. The affiliate or third party nonaffiliate shall be authorized to use the specific customer information solely to perform the contracted for service;
3. The affiliate or third party nonaffiliate shall be expressly prohibited from any other use of the specific customer information with prohibitions to the affiliate or third party nonaffiliate set out in the contract for any unauthorized use

of the specific customer information;

4. The affiliate or third party nonaffiliate shall be directed to treat the specific customer information as confidential at all times with specified prohibitions set out in the contract for not treating the specific customer information as confidential; and

5. The affiliate or third party nonaffiliate shall be directed to return to the covered utility, within ten (10) days following the receipt of a written request, all specific customer information provided to the entity with an attestation that all replication of the information has been returned to the covered utility or the affiliate or third party nonaffiliate may provide to the covered utility an attestation that the affiliate or third party nonaffiliate has destroyed or has had destroyed all material identifying the specific customer information.

(3) Nonutility Related Services

(A) When an affiliated or nonaffiliated third party person or entity contracts with the covered utility to perform a nonutility related service and that particular service requires specific customer information, the regulated electrical corporation, gas corporation, heating company, water corporation, or sewer corporation will provide that affiliate or third party nonaffiliate with specific customer information only with documented recorded or written customer consent.

(4) General or Aggregated Customer Information

(A) General or aggregated customer information shall be made available to affiliates or third

party nonaffiliates upon similar terms and conditions.

(5) Notification to Commission of Violations of Rule

(A) If a covered utility becomes aware of more than an immaterial amount of its confidential customer information having become public or passed into the possession of an unauthorized entity, the covered utility shall notify the staff counsel's office and public counsel as soon as it has verified that this has occurred.

(6) Waiver

(A) Provisions of this rule may be waived by the Commission for good cause shown.

**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 20 – Electric Utilities**

PROPOSED RESCISSION

4 CSR 240-20.015 Affiliate Transactions

PURPOSE: This rule is being rescinded in its entirety and consolidated into a streamlined and simplified rule in Chapter 10.

AUTHORITY: sections 386.250, RSMo. Supp. 1998, and 393.140, RSMo 1994. Original rule filed April 26, 1999, effective Feb. 29, 2000.*

**Original Authority: 386.250, RSMo 1963, amended 1967, 1977, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission 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 a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, 200 Madison Street. P.O. Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for [time, place and address of hearing].*

**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 40 – Gas Utilities and Gas Safety Standards**

PROPOSED RESCISSION

4 CSR 240-40.015 Affiliate Transactions

PURPOSE: This rule is being rescinded in its entirety and consolidated into a streamlined and simplified rule in Chapter 10.

AUTHORITY: sections 386.250, RSMo. Supp. 1998, and 393.140, RSMo 1994. Original rule filed April 26, 1999, effective Feb. 29, 2000.*

**Original Authority: 386.250, RSMo 1963, amended 1967, 1977, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission 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 a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, 200 Madison Street. P.O. Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for [time, place and address of hearing].*

**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 80 – Steam Heating Utilities**

PROPOSED RESCISSION

4 CSR 240-80.015 Affiliate Transactions

PURPOSE: This rule is being rescinded in its entirety and consolidated into a streamlined and simplified rule in Chapter 10.

AUTHORITY: sections 386.250, RSMo. Supp. 1998, and 393.140, RSMo 1994. Original rule filed April 26, 1999, effective Feb. 29, 2000.*

**Original Authority: 386.250, RSMo 1963, amended 1967, 1977, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission 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 a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, 200 Madison Street. P.O. Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for [time, place and address of hearing].*

**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 40 – Gas Utilities and Gas Safety Standards**

PROPOSED RESCISSION

4 CSR 240-40.016 Marketing Affiliate Transactions

PURPOSE: This rule is being rescinded in its entirety and consolidated into a streamlined and simplified rule in Chapter 10.

AUTHORITY: sections 386.250, RSMo. Supp. 1998, and 393.140, RSMo 1994. Original rule filed April 26, 1999, effective Feb. 29, 2000.*

**Original Authority: 386.250, RSMo 1963, amended 1967, 1977, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rescission 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 a statement in support of or in opposition to the proposed rescission with the Missouri Public Service Commission, 200 Madison Street. P.O. Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for [time, place and address of hearing].*