

John R. Ashcroft

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

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Rule Number 4 CSR 240-20.070

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:

Content Nancy Dippell Phone 573-751-8518 FAX 573-526-6010

Email address Nancy.Dippell@psc.mo.gov

Data Entry Christine Koenigsfeld Phone 573-751-4256 FAX 573-526-6010

Email address Christine.Koenigsfeld@psc.mo.gov

Interagency mailing address Public Service Commission, 9th Floor Gov. Office Bldg, JC, Mo
TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency Rulemaking ☐ Rule ☐ Amendment ☐ Rescission ☐ Termination

Effective Date for the Emergency _____

☒ Proposed Rulemaking ☐ Rule ☒ Amendment ☐ Rescission

☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Request for Non-Substantive Change

☐ Statement of Actual Cost

☐ Order of Rulemaking ☐ Withdrawal ☐ Adopt ☐ Amendment ☐ Rescission

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:

Sections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), and (14), new sections (4), (8), (13), and (14)

Small Business Regulatory
Fairness Board (DED) Stamp

SMALL BUSINESS
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

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Commissioners

RYAN A. SILVEY
Chairman

WILLIAM P. KENNEY

DANIEL Y. HALL

SCOTT T. RUPP

MAIDA J. COLEMAN

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://psc.mo.gov>

SHELLEY BRUEGGEMANN
General Counsel

MORRIS WOODRUFF
Secretary

LOYD WILSON
Director of Administration

NATELLE DIETRICH
Staff Director

November 7, 2018

John Ashcroft
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-20.070 Decommissioning Trust Funds

Dear Secretary Ashcroft,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed amendment lawfully submitted by the Missouri Public Service Commission.

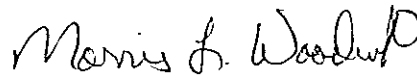
The Public Service Commission has determined and hereby certifies that this proposed amendment will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 536.017, RSMo, that the proposed amendment does not constitute a taking of real property under relevant state and federal law, and that the proposed amendment conforms to the requirements of 1.310, RSMo, regarding user fees.

The Public Service Commission has determined and hereby also certifies that this proposed amendment complies with the small business requirements of 1.310, RSMo, 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, 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: section 386.250 and 393.292, RSMo.

If there are any questions regarding the content of this proposed amendment, please contact:

Nancy Dippell, Senior Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8518
Nancy.Dippell@psc.mo.gov

A handwritten signature in black ink, reading "Morris L. Woodruff". The signature is written in a cursive style with a large, stylized "P" at the end.

Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

STATE CAPITOL
201 W. CAPITOL AVENUE, ROOM 216
JEFFERSON CITY, MISSOURI 65101



(573) 751-3222
WWW.GOVERNOR.MO.GOV

Michael L. Parson

GOVERNOR
STATE OF MISSOURI

August 1, 2018

Mr. Daniel Hall
Public Service Commission
200 Madison Street
PO Box 360
Jefferson City, MO 65102

RE: *Proposed Rulemaking*

Dear Daniel:

This office has received your proposed amendments for the regulations listed below.

- 4 CSR 240-2.010 – Definitions
- 4 CSR 240-2.070 – Complaints
- 4 CSR 240-2.120 – Presiding Officers
- 4 CSR 240-3.030 – Minimum Filing Requirements for Utility Company General Rate Increase Requests
- 4 CSR 240-10.020 – Income on Depreciation Fund Investments
- 4 CSR 240-10.040 – Service and Billing Practices for Commercial and Industrial Customers of Electric, Gas, Water and Steam Heat Utilities
- 4 CSR 240-13.010 – General Provisions
- 4 CSR 240-13.015 – Definitions
- 4 CSR 240-13.020 – Billing and Payment Standards
- 4 CSR 240-20.070 – Decommissioning Trust Funds
- 4 CSR 240-20.105 – Filing Requirements for Electric Utility Rate Schedules

Executive Order 17-03 requires this office's approval before state agencies release proposed regulations for notice and comment, amend existing regulations, rescind regulations, or adopt new regulations. After our review of this rulemaking, we approve the submission of these rules to the Joint Committee on Administrative Rules and the Secretary of State.

Sincerely,


A handwritten signature in black ink, appearing to read "Jessie Eiler".

Jessie Eiler
Deputy Counsel

**AFFIDAVIT
PUBLIC COST**

STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Rob Dixon, 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 amendment to rule, 4 CSR 240-20.070, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

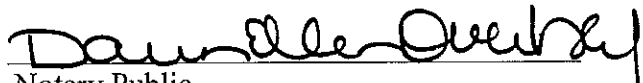


Rob Dixon
Director
Department of Economic Development

Subscribed and sworn to before me this 5th day of October, 2018 I am
commissioned as a notary public within the County of Moniteau, State of
Missouri, and my commission expires on Dec. 13, 2019



DAWN ELLEN OVERBEY
My Commission Expires
December 13, 2019
Moniteau County
Commission #15456865



Notary Public

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SECRETARY OF STATE
ADMINISTRATIVE RULES

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

PROPOSED AMENDMENT

COPY

4 CSR 240-20.070 Decommissioning Trust Funds

PURPOSE: This rule is being amended to correct a reference and consolidate report requirements previously in Chapter 3.

(4) Every three (3) years, utilities with decommissioning trust funds shall perform and file with the commission cost studies detailing the utilities' latest cost estimates for decommissioning their nuclear generating unit(s) along with the funding levels necessary to defray these decommissioning costs. These studies shall be filed along with appropriate tariff(s) effectuating the change in rates necessary to accomplish the funding required. In addition, the commission, at any time for just cause, may require a utility to file an updated decommissioning cost study, funding requirement and associated tariff(s).

(/4/5) Each utility shall establish a tax-qualified externally managed trust fund for the purpose of collecting funds to pay for decommissioning costs. The tax-qualified trust shall be established and maintained in accordance with the provisions of the *Internal Revenue Code*. If the utility has collected funds in excess of the Internal Revenue Service's (IRS) tax-qualified amount, a nontax-qualified externally managed trust fund shall be established and maintained for all these funds. These trust funds shall be administered pursuant to the following requirements:

(/5/6) The utility shall take every reasonable action to provide reasonable assurance that adequate funds are available at the nuclear generating unit's termination of operation, so that decommissioning can be carried out in a safe and timely manner and that lack of funds does not result in delays that may cause undue health and safety hazards.

(/6/7) The utility shall maintain its nuclear generating unit(s) in a manner calculated to minimize the utility's total cost of maintenance and decommissioning, consistent with the prudent operation of the unit.

(8) At the time a tariff(s) is filed by a utility, which proposes any change in rates due to changes in the estimate of decommissioning cost or the funding level of its nuclear decommissioning trust fund(s), the utility shall file the following minimum information in support of the need for changes in its tariff rates:

(A) An updated decommissioning cost study which estimates the cost of decommissioning and the funding levels necessary to defray these costs. This study shall contain the following information:

1. Detailed quantities and unit prices in current dollars for each system of the nuclear generating unit to be decommissioned;
2. A detailed breakdown between radioactive contaminated systems and those systems which are not contaminated by radioactivity;

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3. Funding levels which are computed on a levelized basis and which accrue future decommissioning costs over the remaining licensed life of the nuclear generating unit. The utility shall include the earnings rate and inflation rate assumed in the cost study as compared to those assumed in any previous study;

4. A detailed description of any facilities that were added to or deleted from the cost study filed in the previous case;

5. The beginning date for the expenditure of funds for decommissioning assumed in the study shall be no later than the expiration date of the unit's current Nuclear Regulatory Commission (NRC) license; and

6. The study shall consider and evaluate all reasonable practices or procedures which would reduce the ultimate cost of decommissioning; and

(B) A summary description of the reasons (for example, changes in regulation, technology or economics) that brought on the need to change the decommissioning cost estimate.

(/7/9) Upon the filing of the appropriate tariff(s) as set [in 4 CSR 240-3.180] forth in this rule, the commission shall establish a schedule of proceedings which shall be limited in scope to the following issues:

(/8/10) For a fund intended to be tax qualified, after receipt of any commission order modifying the annual decommissioning funding requirements, the affected utility shall apply for an adjusted IRS ruling in a timely manner, seeking deductibility of the new annual decommissioning cost accruals consistent with the effective dates given in the order. Pending final IRS approval, the utility shall be authorized to continue funding at the level which existed prior to the commission order provided that the utility will take all appropriate action to preserve the tax deduction of the amounts subsequently approved in the IRS ruling.

(/9/11) Distributions may be made from a nuclear decommissioning trust fund only to satisfy the liabilities of the utility for nuclear decommissioning costs relating to the nuclear generating unit for which the decommissioning fund was established and to pay administrative costs, income taxes and other incidental expenses of the trust fund. The utility shall not use proceeds of the trust for the purpose of filing for an updated tax ruling or to qualify the trust.

(/10/12) Each utility shall file with the commission the detailed plan required by the Nuclear Regulatory Commission (NRC) for the decommissioning of its nuclear generating unit when that plan is filed with the NRC. Before any distribution of decommissioning trust funds are made for the decommissioning of its nuclear generating unit, the utility must notify and obtain commission approval of its intent to make this distribution.

(13) The utility or the trustee shall file reports quarterly to the commission. The reports shall contain the following information:

(A) A total of all jurisdictional balances of the trust fund(s) based on a carrying cost (book) value;

(B) A total of all jurisdictional balances of the trust fund(s) based on a market value;

(C) A Missouri jurisdictional balance of the trust fund(s) based on a carrying cost (book) value;

(D) A Missouri jurisdictional balance of the trust fund(s) based on a market value;

(E) A summary of the trust account including the utility's contributions, incomes, expenses, and a weighted average after-tax return for the quarter;

- (F) A portfolio summary per asset class by amount and percentage;
- (G) A detailed report of daily transactions; and
- (H) Any other information the commission orders the utility or trustee to provide.

(14) The utility or the trustee shall file reports annually to the commission that contain the following information:

- (A) An asset maturity schedule;
- (B) A summary of the trust's portfolio of investments including a listing of each security detailing the carrying cost, current market value, maturity date, estimated annual income, and the yield to maturity;
- (C) A copy of all correspondence including income tax returns and tax exempt rulings concerning the trust with the Internal Revenue Service (IRS) or any state revenue agency; and
- (D) Any other information the commission orders the utility or trust to provide.

(/11/15) The utility shall conduct the decommissioning of its nuclear generating unit in accordance with NRC requirements and must not knowingly allow any procedure that would unreasonably endanger human life or the environment.

(/12/16) Upon termination of the trust, the utility shall file with the commission the appropriate tariff(s) to reflect the termination of payments into the decommissioning trust fund, as well as refund or credit any over collection of these funds.

(/13/17) Upon proper application and after due notice and hearing, the commission may waive any provision of this rule for good cause shown.

(/14/18) The commission may adopt further amendments as it deems necessary for the sound management of the trust fund(s), consistent with the purpose of this rule.

AUTHORITY: sections 386.250 and 393.292, RSMo 2000. Original rule filed Nov. 27, 1989, effective March 26, 1990. Amended: Filed May 4, 1993, effective Dec. 9, 1993. Amended: Filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.292, RSMo 1989.*

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

PRIVATE COST: These proposed amendments 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 amendment with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, P.O. Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before January 17, 2019, and should include a reference to Commission Case No. EX-2018-0389. 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 is scheduled for January 28, 2019 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 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.

Small Business Regulator Fairness Board

Small Business Impact Statement

Date: May 29, 2018

Rule Number: 4 CSR 240-20.070 Decommissioning Trust Funds

Name of Agency Preparing Statement: Missouri Public Service Commission

Name of Person Preparing Statement: Jamie Myers

Phone Number: 573-526-6036

Email: jamie.myers@psc.mo.gov

Name of Person Approving Statement: Natelle Dietrich

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).*

This proposed amendment corrects a reference and consolidates report requirements formerly in Chapter 3.

Please explain how your agency has involved small businesses in the development of the proposed rule.

The Commission opened held a workshop and two public hearings.

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.

It is anticipated the proposed rule will not have any monetary costs or benefits.

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

This proposed amendment simply clarifies language and streamlines report requirements. Utilities are already required to comply with the report requirements. This amendment just simplifies and streamlines them. No adverse impact is expected.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

None identified.

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Utilities regulated by the Commission, business owners that are ratepayers of those 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 ☒

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.