

Robin Carnahan

Secretary of State

Administrative Rules Division

RULE TRANSMITTAL

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AUG 19 2005

SECRETARY OF STATE
ADMINISTRATIVE RULESA "SEPARATE" rule transmittal sheet **MUST** be used for EACH individual rulemaking.A. Rule Number 4 CSR 240-3.240Diskette File Name Proposed Rule 3.240

Name of person to call with questions about this rule:

Content Keith Krueger Phone 573-751-4140 FAX 573-751-9285E-mail address keith.krueger@psc.mo.govData entry Sarah Fontaine Phone 573-522-4619 FAX 573-751-9285E-mail address sarah.fontaine@psc.mo.govInteragency mailing address GOB - 200 Madison St., 8th Floor Jefferson City, MOStatutory Authority 386.410Current RSMo date 2004

Date filed with the Joint Committee on Administrative Rules Exempt per Sections 586.024 and 536.037, RSMo 2000, and Executive Order No. 97-97 (June 27, 1997)

B. CHECKLIST guide for rule packets:

☒ This transmittal completed☐ Forms, number of pages _____☒ Cover letter☒ Authority section with history of the rule☒ Affidavit☒ Public cost statement☒ Small business impact statement☒ Private cost statement☐ Fiscal notes☐ Hearing date _____

C. RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination**MUST** include effective date _____☒ Proposed Rulemaking (choose one) ☒ rule, ☐ amendment, or ☐ rescission☐ Order of Rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination**MUST** complete page 2 of this transmittal☐ Withdrawal (choose one) ☐ rule, ☐ amendment, ☐ rescission or ☐ emergency)☐ Rule action notice ☐ In addition ☐ Rule under consideration

D. SPECIFIC INSTRUCTIONS: Any additional information you may wish to provide to our staff _____

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number _____

1a. Effective Date for the Order

☐ Statutory 30 days

Specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?

☐ YES ☐ NO

1c. If the answer is YES, please complete section F.

If the answer is NO, **STOP** here.

F. Please provide a complete list of the changes in the rule text for the order of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. Give an explanation of each section, subsection, etc. which has been changed since the proposed rulemaking was published in the Register.

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.



Commissioners

JEFF DAVIS
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

Missouri Public Service Commission

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JEFFERSON CITY MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
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WESS A. HENDERSON
Executive Director

ROBERT SCHALLENBERG
Director, Utility Services

WARREN WOOD
Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

August 19, 2005

Honorable Robin Carnahan
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Dear Secretary Carnahan:

Re: Rule 4 CSR 240-3.240 (Small Gas Utility Rate Case Procedure)

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed rule lawfully submitted by the Missouri Public Service Commission on this 19th day of August 2005.

Section 536.300, RSMo Supp. 2004 requires state agencies to "determine whether the proposed rulemaking affects small businesses and, if so, the availability and practicability of less-restrictive alternatives that could be implemented to achieve the same results of the proposed rulemaking." A small business is defined to be "a for-profit enterprise consisting of fewer than fifty full- or part-time employees." A proposed rule "affects" a small business if it imposes any requirement that "will cause direct and significant economic burden upon a small business or minority small business."

The proposed rescissions and proposed new, rewritten rules that are the subject of Commission Case No. AX-2005-0363 do not impose any requirement that "will cause direct and significant economic burden upon a small business or minority small business," and the Commission thus certifies that it has determined that the proposed rules will not affect small businesses.

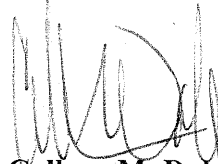
The Public Service Commission also certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to section 536.017, RSMo and that this proposed rule does not constitute a taking of real property under relevant state and federal law.

Statutory authority: Section 386.410, RSMo Supp. 2004.

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

Name: Keith R. Krueger, Deputy General Counsel
Address: Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, Missouri 65102
Phone No.: (573) 751-4140
E-mail: keith.krueger @psc.mo.gov

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is written over a faint, circular official stamp.

Colleen M. Dale
Secretary

Enclosures: Proposed Rescission 4 CSR 240-3.240 (Small Gas Utility Rate Case Procedure);
Affidavit; electronic copy on 3.5" diskette; Rule Transmittal.

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

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SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED RULE

4 CSR 240-3.240 Small Gas Utility Rate Case Procedure

PURPOSE: This rule provides procedures whereby small gas utilities may request increases in their overall annual operating revenues, without the necessity of meeting the filing requirements for general rate increases set forth in 4 CSR 240-2.065(1) and 4 CSR 240-3.030.

(1) Notwithstanding the provisions of any other commission rule to the contrary, a gas utility serving three thousand (3,000) or fewer customers (small gas utility) may request an increase in its overall annual operating revenues through the procedures set forth in this rule.

(2) A small gas utility may initiate a small utility rate case by submitting a letter directed to the manager of the commission's energy department, wherein the subject utility requests an increase in its overall annual operating revenues and provides the information required by section (5) of this rule. A small gas utility submitting such a request shall not submit any proposed tariff revisions with the request. A letter initiating a small utility rate case may be submitted in hard copy to the manager of the energy department or may be submitted via the commission's electronic filing and information system. If a letter initiating a small utility rate case is submitted in hard copy to the manager of the energy department, the manager shall, not later than one (1) working day after receipt of the letter, forward the letter to the commission's data center for entry into the commission's electronic filing and information system.

(3) At the time that a small gas utility submits a letter to initiate a small utility rate case, it shall also provide a copy of the letter to the office of the public counsel (public counsel).

(4) A small gas utility that provides service in multiple, non-interconnected service areas may only submit a request for an increase in its annual operating revenues that is applicable to all of the service areas. For such situations, information related to the subject utility's cost of providing service (i.e. – plant balances, revenues and expenses) for each service area must be made available for the commission staff's and the public counsel's review of the utility's operating revenue increase request.

(5) A small gas utility's letter requesting an increase in its annual operating revenues shall include, at a minimum, the following information:

- (A) The amount of additional annual operating revenues being requested;
- (B) The reason(s) for the requested increase in the utility's annual operating revenues;
- (C) A statement acknowledging that the design of the utility's customer rates will be reviewed as a part of the commission staff's audit of the request;
- (D) A statement acknowledging that the utility's service charges or fees will be reviewed as a part of the commission staff's audit of the request;

- (E) A statement acknowledging that the utility's tariff provisions regarding its rules and regulations for the provision and/or taking of service will be reviewed as a part of the commission staff's audit of the request;
- (F) A statement acknowledging that the utility's depreciation rates will be reviewed as a part of the commission staff's audit of the request;
- (G) A statement that the utility is current on the payment of all its commission assessments, noting whether the most recent assessment has been paid in full or is being paid under an installment plan;
- (H) A statement that the utility is current on the submission of its most recently required commission annual report;
- (I) A statement that the utility is current on the submission of its most recently required commission annual statement of operating revenue; and
- (J) A statement that the utility is in good standing with the Missouri Secretary of State, if applicable.

(6) After a tracking file for a small gas utility's request for an increase in its annual operating revenues has been established in the commission's electronic filing and information system, the commission staff shall determine whether the subject utility's request contains the information required by section (5) of this rule, and whether the statements required by subsections (5)(G)-(J) of this rule are accurate, with such determinations to be made within five (5) working days after the small company rate increase request tracking file is established.

(7) If the commission staff determines that a small gas utility's request for an increase in its annual operating revenues includes the information required by section (5) of this rule, and that the statements required by subsections (5)(G)-(J) of this rule are accurate, the staff shall, within five (5) working days after that determination is made, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion a copy of the utility's request letter.

(8) If the commission staff determines that a small gas utility's request for an increase in its annual operating revenues does not include the information required by section (5) of this rule, or that any of the statements required by subsections (5)(G)-(J) of this rule are not accurate, the staff will return the request to the subject utility along with a written explanation of the deficiencies. In such a situation, consideration of the subject utility's request will be suspended until such time as the utility corrects the referenced deficiencies, and the utility will be notified of that suspension as a part of the written explanation of the deficiencies in the revenue increase request.

(9) For a situation such as that described in section (8) of this rule, the commission staff shall, within five (5) working days after the date that the small gas utility corrects the referenced deficiencies, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion copies of the subject utility's request letter and the correspondence between the commission staff and the utility pertaining to the referenced deficiencies.

(10) For a situation such as that described in section (8) of this rule, if the referenced deficiencies are not corrected within thirty (30) days after the date the small gas utility is notified of the deficiencies, the commission staff will submit a notice regarding this matter to the tracking file in the commission's electronic filing and information system that was established when the rate increase request was received, and the subject utility's request will be treated as having been withdrawn by the utility. In such a situation, the staff will send a written notice to the subject utility regarding the status of its request and as a part of that notice will advise the utility of its right to submit a new request once it has corrected the referenced deficiencies.

(11) At the time that the commission staff files a motion requesting that the commission establish a case for consideration of a small gas utility's request for an increase in its annual operating revenues, the staff shall include with that motion a case activities timeline under which the case will proceed, unless the timeline is modified pursuant to the provisions of sections (27) or (38) of this rule. In the event that the case activities timeline is modified pursuant to the provisions of sections (27) or (38), the commission staff shall file an updated version of the timeline reflecting the modifications made.

(12) After a case is established for consideration of a small gas utility's request for an increase in its annual operating revenues, the subject utility must stay current on the payment of its commission assessments, the submission of its commission annual reports and the submission of its commission annual statement of operating revenue, and must remain in good standing with the Missouri Secretary of State, if applicable. If these requirements are not met, consideration of the request will be suspended until such time that the subject utility corrects the deficiencies. If such a suspension is necessary, the commission staff shall send written notice of the suspension to the subject utility and shall also file that notice in the subject case file. In such a situation, the time period set forth in section (27) of this rule will be extended by an amount of time equal to the amount of time that it takes the subject utility to correct the referenced deficiencies. Additionally, if the referenced deficiencies are not corrected within thirty (30) days after the date the subject utility is notified of the deficiencies, the commission staff shall have the right to file a motion requesting that the utility's rate case be closed, without prejudice to the utility's right to submit a new request for an increase in its operating revenues once it has corrected the referenced deficiencies.

(13) After a case is established for consideration of a small gas utility's request for an increase in its annual operating revenues, the subject utility shall mail written notice of the request, including the impact of the requested increase on an average residential customer's bill, to each of its customers. The notice, which must be approved by the commission staff prior to being mailed, shall indicate that comments regarding the utility's revenue increase request, or any other matters pertaining to the utility's operations, are to be provided to the staff and/or the public counsel within thirty (30) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the

company's request, the commission staff and the public counsel shall exchange copies of the comments, and the staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(14) After a case is established for consideration of a small gas utility's request for an increase in its annual operating revenues, the commission staff shall schedule an investigation of the subject utility's operations and an audit of the utility's financial books and records. If public counsel wishes to conduct an independent investigation and audit of the subject utility, it must do so within the same time period as the commission staff's investigation and audit, as provided for in the case activities timeline.

(15) Within ten (10) days after the completion of its investigation and audit of a small gas utility's requested increase in its annual operating revenues, the commission staff shall send written notice of the results of its investigation and audit to the subject utility and the public counsel. This notification shall include the following information, as applicable:

- (A) The amount of the staff's recommended increase in the subject utility's annual operating revenues, if any, and its supporting audit workpapers;
- (B) The staff's recommended customer rates and its supporting rate design workpapers;
- (C) A bill comparison showing the impact of the staff's annual operating revenue increase and rate design recommendations on an average residential customer;
- (D) The staff's recommendations regarding changes to the subject utility's service charges and fees;
- (E) The staff's recommendations regarding changes to or the establishment of plant depreciation rates to be used by the subject utility;
- (F) The staff's recommendations regarding changes to the subject utility's tariff provisions pertaining to the rules and regulations for the provision and/or taking of service;
- (G) The staff's recommendations regarding changes to the operation of the subject utility's system(s);
- (H) The staff's recommendations regarding changes to the overall management of the subject utility's operations;
- (I) Draft revised tariff sheets reflecting the above staff recommendations; and
- (J) A draft disposition agreement reflecting the above staff recommendations.

(16) Within ten (10) days after the date of the notification of the results of the commission staff's investigation and audit, the small gas utility and the public counsel shall notify the staff of their positions regarding the staff's results. In the alternative, the subject utility or the public counsel may request that the commission staff arrange a conference to discuss the staff's results and/or their positions regarding those results. If such a request is made, the commission staff shall arrange a conference with the subject utility and the public counsel, with the conference to be held within ten (10) days after the commission staff receives the request.

(17) If negotiations between the commission staff, the small gas utility and the public counsel result in a unanimous agreement regarding an increase in the subject utility's annual operating revenues and/or any other matters pertaining to the utility's operations or tariff provisions, including responses to customer concerns, the commission staff shall finalize a written "unanimous agreement regarding disposition of small gas utility rate case" for signature by

representatives of the utility, the public counsel and staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than thirty (30) days after the date the revisions are received at the commission. In such a situation, no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission.

(18) If negotiations between the commission staff, the small gas utility and the public counsel result in an agreement between only the commission staff and the subject utility, the commission staff shall finalize a written "utility/staff agreement regarding disposition of small gas utility rate case" for signature by representatives of the utility and the staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than forty-five (45) days after the date the revisions are received at the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission. For a situation such as that described in this section, the disposition agreement shall contain provisions whereby the subject utility acknowledges that the agreement is subject to change in the event the commission holds a local public hearing as provided for in this rule and the commission staff obtains information as a result of the local public hearing that affects the staff's position regarding the resolution of the utility's request, where such information was not previously available to the staff.

(19) For a situation such as that described in either section (17) or (18) of this rule, the commission staff shall file the signed disposition agreement in the subject case file within five (5) working days after the date the small gas utility submits its tariff revisions to the commission.

(20) For a situation such as that described in section (18) of this rule, the small gas utility shall mail written notice of the provisions of the utility/staff disposition agreement, including the rates and charges that would result from commission approval of the subject utility's tariff revisions and the impact of those rates on an average residential customer's bill, to each of its customers. The notice, which must be approved by the commission staff prior to being mailed, and which is to be mailed to the customers within five (5) working days after the date the utility submits its tariff revisions to the commission, shall indicate that responses to the notice are to be provided to the staff and/or the public counsel within twenty (20) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the utility/staff agreement, the commission staff and the public counsel shall exchange copies of the comments, and the commission staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(21) For a situation such as that described in section (18) of this rule, the public counsel shall, within thirty (30) days after the date that the small gas utility submits its tariff revisions to the commission, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the tariff revisions and the related disposition agreement, and providing the reasons for its position, unless it requests that the commission hold a local public hearing as provided for in section (22) of this rule.

(22) If the public counsel desires the commission to hold a local public hearing, it shall, within thirty (30) days after the date that the small gas utility submits its tariff revisions to the commission, file a pleading in the subject case file requesting that the commission do so and affirmatively stating the reasons for the request. The commission staff and the subject utility shall have five (5) working days to respond to public counsel's request for a local public hearing.

(23) If the commission orders that a local public hearing is to be held, the small gas utility shall mail written notice of that hearing to its customers, with the notice to be consistent with the commission's order and to be approved by the commission staff before it is mailed. At the same time that it mails the approved notice to its customers, the subject utility shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel.

(24) If the commission holds a local public hearing, the commission staff shall, within five (5) working days after the local public hearing, file a pleading in the subject case advising the commission whether changes to the utility/staff agreement regarding disposition of small gas utility rate case are needed and, if so, the anticipated date for such changes to be made.

(25) If the commission holds a local public hearing, the public counsel shall, within five (5) working days after the date the commission staff makes the filing required by section (24) of this rule, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the small gas utility's tariff revisions and the related disposition agreement, and providing the reasons for its position.

(26) Failure of the public counsel to timely file the pleadings required by sections (21), (22) or (25) of this rule will be considered the same as the public counsel's express agreement with the provisions of the small gas utility's tariff revisions and the related disposition agreement.

(27) Except as otherwise provided for in this rule, a written disposition agreement regarding a small gas utility's rate increase request must be executed by at least the subject utility and the commission staff, and the subject utility must submit its tariff revisions related to the disposition agreement to the commission, within one hundred fifty (150) days after the date the commission establishes a case for consideration of the subject utility's operating revenue increase request. This time period may, however, be extended by consent of the subject utility and the commission staff. Confirmation of the consent for an extension of this one hundred fifty (150)-day time period shall be made in writing, shall include a date certain for the end of the extension, and shall be filed in the subject case file by the commission staff. If necessary, multiple extensions of the one hundred fifty (150)-day time period may be executed.

(28) To the extent that agreement cannot be reached on all issues regarding the disposition of a requested increase in a small gas utility's annual operating revenues, the written disposition agreement may include provisions whereby the signatories agree to request that the commission allow the small gas utility, the commission staff and the public counsel to enter arbitration on an agreed-upon list of issues of significance to the subject utility's rate case. The arbitration shall be carried out according to the provisions of sections (29) through (34) below.

(29) If the commission approves a request for arbitration, it shall appoint a regulatory law judge, other than the regulatory law judge assigned to the small gas utility's pending rate case, to act as the arbitrator.

(30) If the commission approves a request for arbitration, the small gas utility may participate in the arbitration hearing either with or without the assistance of counsel.

(31) The arbitrator shall decide the issue(s) being arbitrated based on the methodology known as "final offer" arbitration, under which the parties will present evidence in favor of their respective positions and the arbitrator will adopt the position of one of the parties based upon the evidence and commission precedent.

(32) The arbitration hearing shall proceed as a matter of public record under the following conditions:

(A) At least one (1) week prior to the commencement of the arbitration hearing, the parties shall file their position(s) on the issue(s) being arbitrated, along with statements in support thereof and a list of the evidence the party intends to rely on at the arbitration hearing;

(B) The procedure at the arbitration hearing shall allow the parties the opportunity to present opening statements, to call witnesses and present evidence in support of their positions, to cross-examine other parties' witnesses and to present closing arguments, all of which shall be limited in scope to the issue(s) being arbitrated; and

(C) There will be no written post-hearing briefs, except upon request of the arbitrator.

(33) The arbitrator's decision and the written disposition agreement that contains the resolution of the other issues pertaining to the small gas utility's rate case shall be submitted to the commission for its consideration in issuing its report and order regarding the overall resolution of the subject utility's rate case.

(34) Motions for rehearing of the commission's decision regarding the adoption of the arbitrator's decision shall be limited to motions regarding the commission's decision on the entire rate case pursuant to sections 386.500 and 386.510, RSMo.

(35) In the event that the small gas utility and the commission staff agree that an increase in the subject utility's annual operating revenues is not necessary, or in the event that the utility advises the commission staff that it no longer wishes to pursue an increase in its annual operating revenues, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(36) In the event that an agreement regarding the disposition of a requested increase in a small gas utility's annual operating revenues cannot be reached between at least the commission staff and the subject utility, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(37) For a situation such as that described in section (36) of this rule, the commission staff will send a written notice to the small gas utility informing the utility that it may initiate a general rate increase request pursuant to the provisions of 4 CSR 240-2.065(1) and 4 CSR 240-3.030.

(38) A small gas utility, the commission staff or the public counsel may file an application for a waiver of any of the provisions of this rule, including the provisions of the case activities timeline, and the commission may grant such a waiver for good cause.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed August 19, 2005.

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

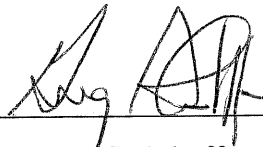
PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Secretary of the Commission, Attn: Data Center, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices within thirty (30) days after publication in the **Missouri Register**. Comments should include a reference to Commission Case No. AX-2005-0363. 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.mo.gov/efis.asp>>. No public hearing is scheduled.*

AFFIDAVIT
(PUBLIC NO COST)

STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Gregory A. Steinhoff, Director of Economic Development, first being duly sworn on my oath, state that it is my opinion that the cost of the **Proposed Rule 4 CSR 240-3.240, Small Gas Utility Rate Case Procedure**, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Gregory A. Steinhoff
Director
Department of Economic Development

Subscribed and sworn to before me this 1 day of August, 2005. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on August 12, 2008.



Notary Public



Robin Carnahan

Secretary of State

Administrative Rules Division

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Missouri Public Service Commission

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WESS A. HENDERSON
Executive Director

ROBERT SCHALLENBERG
Director, Utility Services

WARREN WOOD
Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

August 19, 2005

Honorable Robin Carnahan
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Dear Secretary Carnahan:

Re: Rule 4 CSR 240-3.330 (Small Sewer Utility Rate Case Procedure)

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed rule lawfully submitted by the Missouri Public Service Commission on this 19th day of August 2005.

Section 536.300, RSMo Supp. 2004 requires state agencies to "determine whether the proposed rulemaking affects small businesses and, if so, the availability and practicability of less-restrictive alternatives that could be implemented to achieve the same results of the proposed rulemaking." A small business is defined to be "a for-profit enterprise consisting of fewer than fifty full- or part-time employees." A proposed rule "affects" a small business if it imposes any requirement that "will cause direct and significant economic burden upon a small business or minority small business."

The proposed rescissions and proposed new, rewritten rules that are the subject of Commission Case No. AX-2005-0363 do not impose any requirement that "will cause direct and significant economic burden upon a small business or minority small business," and the Commission thus certifies that it has determined that the proposed rules will not affect small businesses.

The Public Service Commission also certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to section 536.017, RSMo and that this proposed rule does not constitute a taking of real property under relevant state and federal law.

Statutory authority: Section 386.410, RSMo Supp. 2004.

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


Name: Keith R. Krueger, Deputy General Counsel
Address: Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, Missouri 65102
Phone No.: (573) 751-4140
E-mail: keith.krueger@psc.mo.gov

RECEIVED

AUG 19 2005

**SECRETARY OF STATE
ADMINISTRATIVE RULES**

BY THE COMMISSION



**Colleen M. Dale
Secretary**

Enclosures: Proposed Rescission 4 CSR 240-3.330 (Small Sewer Utility Rate Case Procedure);
Affidavit; electronic copy on 3.5" diskette; Rule Transmittal.

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

RECEIVED

AUG 19 2005

PROPOSED RULE

SECRETARY OF STATE
ADMINISTRATIVE RULES

4 CSR 240-3.330 Small Sewer Utility Rate Case Procedure

PURPOSE: This rule provides procedures whereby small sewer utilities may request increases in their overall annual operating revenues, without the necessity of meeting the filing requirements for general rate increases set forth in 4 CSR 240-2.065(1) and 4 CSR 240-3.030.

- (1) Notwithstanding the provisions of any other commission rule to the contrary, a sewer utility serving eight thousand (8,000) or fewer customers (small sewer utility) may request an increase in its overall annual operating revenues through the procedures set forth in this rule.
- (2) A small sewer utility may initiate a small utility rate case by submitting a letter directed to the manager of the commission's water and sewer department, wherein the subject utility requests an increase in its overall annual operating revenues and provides the information required by section (6) of this rule. A small sewer utility submitting such a request shall not submit any proposed tariff revisions with the request. A letter initiating a small utility rate case may be submitted in hard copy to the manager of the water and sewer department or may be submitted via the commission's electronic filing and information system. If a letter initiating a small utility rate case is submitted in hard copy to the manager of the water and sewer department, the manager shall, not later than one (1) working day after receipt of the letter, forward the letter to the commission's data center for entry into the commission's electronic filing and information system.
- (3) At the time that a small sewer utility submits a letter to initiate a small utility rate case, it shall also provide a copy of the letter to the office of the public counsel (public counsel).
- (4) A small sewer utility that also operates a water system may submit a request for an increase in only its sewer service annual operating revenues; provided, however, that the commission staff and the public counsel are authorized to also review the earnings status of subject utility's water system operations in making their determination of whether an increase in the utility's sewer service annual operating revenues is warranted.
- (5) A small sewer utility that provides service in multiple, non-interconnected service areas may only submit a request for an increase in its annual operating revenues that is applicable to all of the service areas. For such situations, information related to the subject utility's cost of providing service (i.e. – plant balances, revenues and expenses) for each service area must be made available for the commission staff's and the public counsel's review of the utility's operating revenue increase request.
- (6) A small sewer utility's letter requesting an increase in its annual operating revenues shall include, at a minimum, the following information:

- (A) The amount of additional annual operating revenues being requested;
- (B) The reason(s) for the requested increase in the utility's annual operating revenues;
- (C) A statement acknowledging that the design of the utility's customer rates will be reviewed as a part of the commission staff's audit of the request;
- (D) A statement acknowledging that the utility's service charges or fees will be reviewed as a part of the commission staff's audit of the request;
- (E) A statement acknowledging that the utility's tariff provisions regarding its rules and regulations for the provision and/or taking of service will be reviewed as a part of the commission staff's audit of the request;
- (F) A statement acknowledging that the utility's depreciation rates will be reviewed as a part of the commission staff's audit of the request;
- (G) A statement that the utility is current on the payment of all its commission assessments, noting whether the most recent assessment has been paid in full or is being paid under an installment plan;
- (H) A statement that the utility is current on the submission of its most recently required commission annual report;
- (I) A statement that the utility is current on the submission of its most recently required commission annual statement of operating revenue;
- (J) A statement that the utility is current on the payment of any required fees administered by the Missouri Department of Natural Resources (MDNR); and
- (K) A statement that the utility is in good standing with the Missouri Secretary of State, if applicable.

(7) After a tracking file for a small sewer utility's request for an increase in its annual operating revenues has been established in the commission's electronic filing and information system, the commission staff shall determine whether the subject utility's request contains the information required by section (6) of this rule, and whether the statements required by subsections (6)(G)-(K) of this rule are accurate, with such determinations to be made within five (5) working days after the small company rate increase request tracking file is established.

(8) If the commission staff determines that a small sewer utility's request for an increase in its annual operating revenues includes the information required by section (6) of this rule, and that the statements required by subsections (6)(G)-(K) of this rule are accurate, the staff shall, within five (5) working days after that determination is made, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion a copy of the utility's request letter.

(9) If the commission staff determines that a small sewer utility's request for an increase in its annual operating revenues does not include the information required by section (6) of this rule, or that any of the statements required by subsections (6)(G)-(K) of this rule are not accurate, the staff will return the request to the subject utility along with a written explanation of the deficiencies. In such a situation, consideration of the subject utility's request will be suspended until such time as the utility corrects the referenced deficiencies, and the utility will be notified of that suspension as a part of the written explanation of the deficiencies in the revenue increase request.

(10) For a situation such as that described in section (9) of this rule, the commission staff shall, within five (5) working days after the date that the small sewer utility corrects the referenced deficiencies, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion copies of the subject utility's request letter and the correspondence between the commission staff and the utility pertaining to the referenced deficiencies.

(11) For a situation such as that described in section (9) of this rule, if the referenced deficiencies are not corrected within thirty (30) days after the date the small sewer utility is notified of the deficiencies, the commission staff will submit a notice regarding this matter to the tracking file in the commission's electronic filing and information system that was established when the rate increase request was received, and the subject utility's request will be treated as having been withdrawn by the utility. In such a situation, the staff will send a written notice to the subject utility regarding the status of its request and as a part of that notice will advise the utility of its right to submit a new request once it has corrected the referenced deficiencies.

(12) At the time that the commission staff files a motion requesting that the commission establish a case for consideration of a small sewer utility's request for an increase in its annual operating revenues, the staff shall include with that motion a case activities timeline under which the case will proceed, unless the timeline is modified pursuant to the provisions of sections (28) or (39) of this rule. In the event that the case activities timeline is modified pursuant to the provisions of sections (28) or (39), the commission staff shall file an updated version of the timeline reflecting the modifications made.

(13) After a case is established for consideration of a small sewer utility's request for an increase in its annual operating revenues, the subject utility must stay current on the payment of its commission assessments, the submission of its commission annual reports, the submission of its commission annual statement of operating revenue and the payment of its MDNR fees, and must remain in good standing with the Missouri Secretary of State, if applicable. If these requirements are not met, consideration of the request will be suspended until such time that the subject utility corrects the deficiencies. If such a suspension is necessary, the commission staff shall send written notice of the suspension to the subject utility and shall also file that notice in the subject case file. In such a situation, the time period set forth in section (28) of this rule will be extended by an amount of time equal to the amount of time that it takes the subject utility to correct the referenced deficiencies. Additionally, if the referenced deficiencies are not corrected within thirty (30) days after the date the subject utility is notified of the deficiencies, the commission staff shall have the right to file a motion requesting that the utility's rate case be closed, without prejudice to the utility's right to submit a new request for an increase in its operating revenues once it has corrected the referenced deficiencies.

(14) After a case is established for consideration of a small sewer utility's request for an increase in its annual operating revenues, the subject utility shall mail written notice of the request, including the impact of the requested increase on an average residential customer's bill, to each of its customers. The notice, which must be approved by the commission staff prior to being mailed, shall indicate that comments regarding the utility's revenue increase request, or any other matters pertaining to the utility's operations, are to be provided to the staff and/or the public

counsel within thirty (30) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the company's request, the commission staff and the public counsel shall exchange copies of the comments, and the staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(15) After a case is established for consideration of a small sewer utility's request for an increase in its annual operating revenues, the commission staff shall schedule an investigation of the subject utility's operations and an audit of the utility's financial books and records. If public counsel wishes to conduct an independent investigation and audit of the subject utility, it must do so within the same time period as the commission staff's investigation and audit, as provided for in the case activities timeline.

(16) Within ten (10) days after the completion of its investigation and audit of a small sewer utility's requested increase in its annual operating revenues, the commission staff shall send written notice of the results of its investigation and audit to the subject utility and the public counsel. This notification shall include the following information, as applicable:

- (A) The amount of the staff's recommended increase in the subject utility's annual operating revenues, if any, and its supporting audit workpapers;
- (B) The staff's recommended customer rates and its supporting rate design workpapers;
- (C) A bill comparison showing the impact of the staff's annual operating revenue increase and rate design recommendations on an average residential customer;
- (D) The staff's recommendations regarding changes to the subject utility's service charges and fees;
- (E) The staff's recommendations regarding changes to or the establishment of plant depreciation rates to be used by the subject utility;
- (F) The staff's recommendations regarding changes to the subject utility's tariff provisions pertaining to the rules and regulations for the provision and/or taking of service;
- (G) The staff's recommendations regarding changes to the operation of the subject utility's system(s);
- (H) The staff's recommendations regarding changes to the overall management of the subject utility's operations;
- (I) Draft revised tariff sheets reflecting the above staff recommendations; and
- (J) A draft disposition agreement reflecting the above staff recommendations.

(17) Within ten (10) days after the date of the notification of the results of the commission staff's investigation and audit, the small sewer utility and the public counsel shall notify the staff of their positions regarding the staff's results. In the alternative, the subject utility or the public counsel may request that the commission staff arrange a conference to discuss the staff's results and/or their positions regarding those results. If such a request is made, the commission staff

shall arrange a conference with the subject utility and the public counsel, with the conference to be held within ten (10) days after the commission staff receives the request.

(18) If negotiations between the commission staff, the small sewer utility and the public counsel result in a unanimous agreement regarding an increase in the subject utility's annual operating revenues and/or any other matters pertaining to the utility's operations or tariff provisions, including responses to customer concerns, the commission staff shall finalize a written "unanimous agreement regarding disposition of small sewer utility rate case" for signature by representatives of the utility, the public counsel and staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than thirty (30) days after the date the revisions are received at the commission. In such a situation, no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission.

(19) If negotiations between the commission staff, the small sewer utility and the public counsel result in an agreement between only the commission staff and the subject utility, the commission staff shall finalize a written "utility/staff agreement regarding disposition of small sewer utility rate case" for signature by representatives of the utility and the staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than forty-five (45) days after the date the revisions are received at the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission. For a situation such as that described in this section, the disposition agreement shall contain provisions whereby the subject utility acknowledges that the agreement is subject to change in the event the commission holds a local public hearing as provided for in this rule and the commission staff obtains information as a result of the local public hearing that affects the staff's position regarding the resolution of the utility's request, where such information was not previously available to the staff.

(20) For a situation such as that described in either section (18) or (19) of this rule, the commission staff shall file the signed disposition agreement in the subject case file within five (5) working days after the date the small sewer utility submits its tariff revisions to the commission.

(21) For a situation such as that described in section (19) of this rule, the small sewer utility shall mail written notice of the provisions of the utility/staff disposition agreement, including the rates and charges that would result from commission approval of the subject utility's tariff revisions and the impact of those rates on an average residential customer's bill, to each of its customers. The notice, which must be approved by the commission staff prior to being mailed, and which is to be mailed to the customers within five (5) working days after the date the utility submits its tariff revisions to the commission, shall indicate that responses to the notice are to be provided to the staff and/or the public counsel within twenty (20) days after the date shown on the notice.

The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the utility/staff agreement, the commission staff and the public counsel shall exchange copies of the comments, and the commission staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(22) For a situation such as that described in section (19) of this rule, the public counsel shall, within thirty (30) days after the date that the small sewer utility submits its tariff revisions to the commission, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the tariff revisions and the related disposition agreement, and providing the reasons for its position, unless it requests that the commission hold a local public hearing as provided for in section (23) of this rule.

(23) If the public counsel desires the commission to hold a local public hearing, it shall, within thirty (30) days after the date that the small sewer utility submits its tariff revisions to the commission, file a pleading in the subject case file requesting that the commission do so and affirmatively stating the reasons for the request. The commission staff and the subject utility shall have five (5) working days to respond to public counsel's request for a local public hearing.

(24) If the commission orders that a local public hearing is to be held, the small sewer utility shall mail written notice of that hearing to its customers, with the notice to be consistent with the commission's order and to be approved by the commission staff before it is mailed. At the same time that it mails the approved notice to its customers, the subject utility shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel.

(25) If the commission holds a local public hearing, the commission staff shall, within five (5) working days after the local public hearing, file a pleading in the subject case advising the commission whether changes to the utility/staff agreement regarding disposition of small sewer utility rate case are needed and, if so, the anticipated date for such changes to be made.

(26) If the commission holds a local public hearing, the public counsel shall, within five (5) working days after the date the commission staff makes the filing required by section (25) of this rule, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the small sewer utility's tariff revisions and the related disposition agreement, and providing the reasons for its position.

(27) Failure of the public counsel to timely file the pleadings required by sections (22), (23) or (26) of this rule will be considered the same as the public counsel's express agreement with the provisions of the small sewer utility's tariff revisions and the related disposition agreement.

(28) Except as otherwise provided for in this rule, a written disposition agreement regarding a small sewer utility's rate increase request must be executed by at least the subject utility and the commission staff, and the subject utility must submit its tariff revisions related to the disposition agreement to the commission, within one hundred fifty (150) days after the date the commission establishes a case for consideration of the subject utility's operating revenue increase request. This time period may, however, be extended by consent of the subject utility and the commission staff. Confirmation of the consent for an extension of this one hundred fifty (150)-day time period shall be made in writing, shall include a date certain for the end of the extension, and shall be filed in the subject case file by the commission staff. If necessary, multiple extensions of the one hundred fifty (150)-day time period may be executed.

(29) To the extent that agreement cannot be reached on all issues regarding the disposition of a requested increase in a small sewer utility's annual operating revenues, the written disposition agreement may include provisions whereby the signatories agree to request that the commission allow the small sewer utility, the commission staff and the public counsel to enter arbitration on an agreed-upon list of issues of significance to the subject utility's rate case. The arbitration shall be carried out according to the provisions of sections (30) through (35) below.

(30) If the commission approves a request for arbitration, it shall appoint a regulatory law judge, other than the regulatory law judge assigned to the small sewer utility's pending rate case, to act as the arbitrator.

(31) If the commission approves a request for arbitration, the small sewer utility may participate in the arbitration hearing either with or without the assistance of counsel.

(32) The arbitrator shall decide the issue(s) being arbitrated based on the methodology known as "final offer" arbitration, under which the parties will present evidence in favor of their respective positions and the arbitrator will adopt the position of one of the parties based upon the evidence and commission precedent.

(33) The arbitration hearing shall proceed as a matter of public record under the following conditions:

(A) At least one week prior to the commencement of the arbitration hearing, the parties shall file their position(s) on the issue(s) being arbitrated, along with statements in support thereof and a list of the evidence the party intends to rely on at the arbitration hearing;

(B) The procedure at the arbitration hearing shall allow the parties the opportunity to present opening statements, to call witnesses and present evidence in support of their positions, to cross-examine other parties' witnesses and to present closing arguments, all of which shall be limited in scope to the issue(s) being arbitrated; and

(C) There will be no written post-hearing briefs, except upon request of the arbitrator.

(34) The arbitrator's decision and the written disposition agreement that contains the resolution of the other issues pertaining to the small sewer utility's rate case shall be submitted to the commission for its consideration in issuing its report and order regarding the overall resolution of the subject utility's rate case.

(35) Motions for rehearing of the commission's decision regarding the adoption of the arbitrator's decision shall be limited to motions regarding the commission's decision on the entire rate case pursuant to sections 386.500 and 386.510, RSMo.

(36) In the event that the small sewer utility and the commission staff agree that an increase in the subject utility's annual operating revenues is not necessary, or in the event that the utility advises the commission staff that it no longer wishes to pursue an increase in its annual operating revenues, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(37) In the event that an agreement regarding the disposition of a requested increase in a small sewer utility's annual operating revenues cannot be reached between at least the commission staff and the subject utility, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(38) For a situation such as that described in section (37) of this rule, the commission staff will send a written notice to the small sewer utility informing the utility that it may initiate a general rate increase request pursuant to the provisions of 4 CSR 240-2.065(1) and 4 CSR 240-3.030.

(39) A small sewer utility, the commission staff or the public counsel may file an application for a waiver of any of the provisions of this rule, including the provisions of the case activities timeline, and the commission may grant such a waiver for good cause.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed August 19, 2005.

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

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Secretary of the Commission, Attn: Data Center, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices within thirty (30) days after publication in the **Missouri Register**. Comments should include a reference to Commission Case No. AX-2005-0363. 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.mo.gov/efis.asp>>. No public hearing is scheduled.*

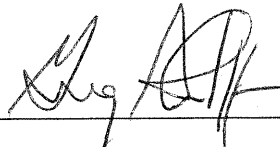
AFFIDAVIT
(PUBLIC NO COST)

STATE OF MISSOURI)

)

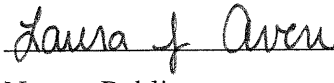
COUNTY OF COLE)

I, Gregory A. Steinhoff, Director of Economic Development, first being duly sworn on my oath, state that it is my opinion that the cost of the **Proposed Rule 4 CSR 240-3.330, Small Sewer Utility Rate Case Procedure**, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

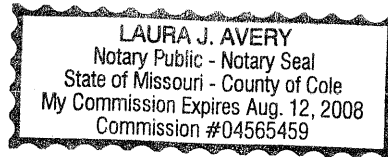


Gregory A. Steinhoff
Director
Department of Economic Development

Subscribed and sworn to before me this 1 day of August, 2005. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on August 12, 2008.



Notary Public



Robin Carnahan

Secretary of State

Administrative Rules Division

RULE TRANSMITTAL

RECEIVED

AUG 19 2005

SECRETARY OF STATE
ADMINISTRATIVE RULESA "SEPARATE" rule transmittal sheet **MUST** be used for EACH individual rulemaking.A. Rule Number 4 CSR 240-3.440Diskette File Name Proposed Rule 3.440

Name of person to call with questions about this rule:

Content Keith Krueger Phone 573-751-4140 FAX 573-751-9285E-mail address keith.krueger@psc.mo.govData entry Sarah Fontaine Phone 573-522-4619 FAX 573-751-9285E-mail address sarah.fontaine@psc.mo.govInteragency mailing address GOB - 200 Madison St., 8th Floor Jefferson City, MOStatutory Authority 386.410Current RSMo date 2004Date filed with the Joint Committee on Administrative Rules Exempt per Sections 586.024
and 536.037, RSMo 2000, and Executive Order No. 97-97 (June 27, 1997)

B. CHECKLIST guide for rule packets:

☒ This transmittal completed☐ Forms, number of pages _____☒ Cover letter☒ Authority section with history of the rule☒ Affidavit☒ Public cost statement☒ Small business impact statement☒ Private cost statement☐ Fiscal notes☐ Hearing date _____

C. RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination**MUST** include effective date _____☒ Proposed Rulemaking (choose one) ☒ rule, ☐ amendment, or ☐ rescission☐ Order of Rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination**MUST** complete page 2 of this transmittal☐ Withdrawal (choose one) ☐ rule, ☐ amendment, ☐ rescission or ☐ emergency)☐ Rule action notice ☐ In addition ☐ Rule under consideration

D. SPECIFIC INSTRUCTIONS: Any additional information you may wish to provide to our staff _____

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number _____

1a. Effective Date for the Order

☐ Statutory 30 days

Specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?

☐ YES

☐ NO

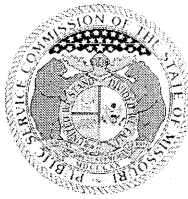
1c. If the answer is YES, please complete section F.

If the answer is NO, **STOP** here.

F. Please provide a complete list of the changes in the rule text for the order of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. Give an explanation of each section, subsection, etc. which has been changed since the proposed rulemaking was published in the Register.

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.



Commissioners

JEFF DAVIS
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

Missouri Public Service Commission

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

WESS A. HENDERSON
Executive Director

ROBERT SCHALLENBERG
Director, Utility Services

WARREN WOOD
Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

August 19, 2005

Honorable Robin Carnahan
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Dear Secretary Carnahan:

Re: Rule 4 CSR 240-3.440 (Small Steam Heating Utility Rate Case Procedure)

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed rule lawfully submitted by the Missouri Public Service Commission on this 19th day of August 2005.

Section 536.300, RSMo Supp. 2004 requires state agencies to "determine whether the proposed rulemaking affects small businesses and, if so, the availability and practicability of less-restrictive alternatives that could be implemented to achieve the same results of the proposed rulemaking." A small business is defined to be "a for-profit enterprise consisting of fewer than fifty full- or part-time employees." A proposed rule "affects" a small business if it imposes any requirement that "will cause direct and significant economic burden upon a small business or minority small business."

The proposed rescissions and proposed new, rewritten rules that are the subject of Commission Case No. AX-2005-0363 do not impose any requirement that "will cause direct and significant economic burden upon a small business or minority small business," and the Commission thus certifies that it has determined that the proposed rules will not affect small businesses.

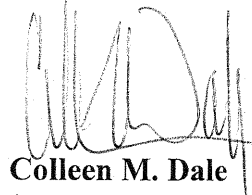
The Public Service Commission also certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to section 536.017, RSMo and that this proposed rule does not constitute a taking of real property under relevant state and federal law.

Statutory authority: Section 386.410, RSMo Supp. 2004.

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

Name: Keith R. Krueger, Deputy General Counsel
Address: Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, Missouri 65102
Phone No.: (573) 751-4140
E-mail: keith.krueger @psc.mo.gov

BY THE COMMISSION



Colleen M. Dale
Secretary

Enclosures: Proposed Rescission 4 CSR 240-3.440 (Small Steam Heating Utility Rate Case Procedure); Affidavit; electronic copy on 3.5" diskette; Rule Transmittal.

Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240 – Public Service Commission

Chapter 3 – Filing and Reporting Requirements

PROPOSED RULE

RECEIVED
AUG 19 2005

SECRETARY OF STATE
ADMINISTRATIVE RULES

4 CSR 240-3.440 Small Steam Heating Utility Rate Case Procedure

PURPOSE: This rule provides procedures whereby small steam heating utilities may request increases in their overall annual operating revenues, without the necessity of meeting the filing requirements for a general rate increase request as set forth in 4 CSR 240-2.065(1) and 4 CSR 240-3.030.

(1) Notwithstanding the provisions of any other commission rule to the contrary, a steam heating utility serving one hundred (100) or fewer customers (small steam heating utility) may request an increase in its overall annual operating revenues through the procedures set forth in this rule.

(2) A small steam heating utility may initiate a small utility rate case by submitting a letter directed to the manager of the commission's energy department, wherein the subject utility requests an increase in its overall annual operating revenues and provides the information required by section (5) of this rule. A small steam heating utility submitting such a request shall not submit any proposed tariff revisions with the request. A letter initiating a small utility rate case may be submitted in hard copy to the manager of the energy department or may be submitted via the commission's electronic filing and information system. If a letter initiating a small utility rate case is submitted in hard copy to the manager of the energy department, the manager shall, not later than one (1) working day after receipt of the letter, forward the letter to the commission's data center for entry into the commission's electronic filing and information system.

(3) At the time that a small steam heating utility submits a letter to initiate a small utility rate case, it shall also provide a copy of the letter to the office of the public counsel (public counsel).

(4) A small steam heating utility that provides service in multiple, non-interconnected service areas may only submit a request for an increase in its annual operating revenues that is applicable to all of the service areas. For such situations, information related to the subject utility's cost of providing service (i.e. – plant balances, revenues and expenses) for each service area must be made available for the commission staff's and the public counsel's review of the utility's operating revenue increase request.

(5) A small steam heating utility's letter requesting an increase in its annual operating revenues shall include, at a minimum, the following information:

- (A) The amount of additional annual operating revenues being requested;
- (B) The reason(s) for the requested increase in the utility's annual operating revenues;
- (C) A statement acknowledging that the design of the utility's customer rates will be reviewed as a part of the commission staff's audit of the request;

- (D) A statement acknowledging that the utility's service charges or fees will be reviewed as a part of the commission staff's audit of the request;
- (E) A statement acknowledging that the utility's tariff provisions regarding its rules and regulations for the provision and/or taking of service will be reviewed as a part of the commission staff's audit of the request;
- (F) A statement acknowledging that the utility's depreciation rates will be reviewed as a part of the commission staff's audit of the request;
- (G) A statement that the utility is current on the payment of all its commission assessments, noting whether the most recent assessment has been paid in full or is being paid under an installment plan;
- (H) A statement that the utility is current on the submission of its most recently required commission annual report;
- (I) A statement that the utility is current on the submission of its most recently required commission annual statement of operating revenue; and
- (J) A statement that the utility is in good standing with the Missouri Secretary of State, if applicable.

(6) After a tracking file for a small steam heating utility's request for an increase in its annual operating revenues has been established in the commission's electronic filing and information system, the commission staff shall determine whether the subject utility's request contains the information required by section (5) of this rule, and whether the statements required by subsections (5)(G)-(J) of this rule are accurate, with such determinations to be made within five (5) working days after the small company rate increase request tracking file is established.

(7) If the commission staff determines that a small steam heating utility's request for an increase in its annual operating revenues includes the information required by section (5) of this rule, and that the statements required by subsections (5)(G)-(J) of this rule are accurate, the staff shall, within five (5) working days after that determination is made, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion a copy of the utility's request letter.

(8) If the commission staff determines that a small steam heating utility's request for an increase in its annual operating revenues does not include the information required by section (5) of this rule, or that any of the statements required by subsections (5)(G)-(J) of this rule are not accurate, the staff will return the request to the subject utility along with a written explanation of the deficiencies. In such a situation, consideration of the subject utility's request will be suspended until such time as the utility corrects the referenced deficiencies, and the utility will be notified of that suspension as a part of the written explanation of the deficiencies in the revenue increase request.

(9) For a situation such as that described in section (8) of this rule, the commission staff shall, within five (5) working days after the date that the small steam heating utility corrects the referenced deficiencies, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion copies of the subject utility's request letter and the correspondence between the commission staff and the utility pertaining to the referenced deficiencies.

(10) For a situation such as that described in section (8) of this rule, if the referenced deficiencies are not corrected within thirty (30) days after the date the small steam heating utility is notified of the deficiencies, the commission staff will submit a notice regarding this matter to the tracking file in the commission's electronic filing and information system that was established when the rate increase request was received, and the subject utility's request will be treated as having been withdrawn by the utility. In such a situation, the staff will send a written notice to the subject utility regarding the status of its request and as a part of that notice will advise the utility of its right to submit a new request once it has corrected the referenced deficiencies.

(11) At the time that the commission staff files a motion requesting that the commission establish a case for consideration of a small steam heating utility's request for an increase in its annual operating revenues, the staff shall include with that motion a case activities timeline under which the case will proceed, unless the timeline is modified pursuant to the provisions of sections (29) or (40) of this rule. In the event that the case activities timeline is modified pursuant to the provisions of sections (29) or (40), the commission staff shall file an updated version of the timeline reflecting the modifications made.

(12) After a case is established for consideration of a small steam heating utility's request for an increase in its annual operating revenues, the subject utility must stay current on the payment of its commission assessments, the submission of its commission annual reports and the submission of its commission annual statement of operating revenue, and must remain in good standing with the Missouri Secretary of State, if applicable. If these requirements are not met, consideration of the request will be suspended until such time that the subject utility corrects the deficiencies. If such a suspension is necessary, the commission staff shall send written notice of the suspension to the subject utility and shall also file that notice in the subject case file. In such a situation, the time period set forth in section (29) of this rule will be extended by an amount of time equal to the amount of time that it takes the subject utility to correct the referenced deficiencies. Additionally, if the referenced deficiencies are not corrected within thirty (30) days after the date the subject utility is notified of the deficiencies, the commission staff shall have the right to file a motion requesting that the utility's rate case be closed, without prejudice to the utility's right to submit a new request for an increase in its operating revenues once it has corrected the referenced deficiencies.

(13) After a case is established for consideration of a small steam heating utility's request for an increase in its annual operating revenues, the subject utility shall mail written notice of the request, including the impact of the requested increase on typical commercial and industrial customers' bills, to each of its customers and to each provider of gas service or electric service in the area of the request. The notice, which must be approved by the commission staff prior to being mailed, shall indicate that comments regarding the utility's revenue increase request, or any other matters pertaining to the utility's operations, are to be provided to the staff and/or the public counsel within thirty (30) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' and gas and electric service providers' use in responding to the

notice. At the same time that the subject utility mails the approved notice to its customers and the gas and electric service providers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the subject utility's revenue increase request, the commission staff and the public counsel shall exchange copies of the comments, and the staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(14) Any customer, gas service provider or electric service provider that responds to the notice required by section (13) of this rule in a timely manner shall be entitled to copies of all filings subsequently made in the case, with the possible exception of any information deemed to be confidential or proprietary, and may participate in any conferences or hearings therein.

(15) After a case is established for consideration of a small steam heating utility's request for an increase in its annual operating revenues, the commission staff shall schedule an investigation of the subject utility's operations and an audit of the utility's financial books and records. If public counsel wishes to conduct an independent investigation and audit of the subject utility, it must do so within the same time period as the commission staff's investigation and audit, as provided for in the case activities timeline.

(16) In compliance with commission rule 4 CSR 240-2.090, the small steam heating utility shall make the following information available to the commission staff and the public counsel for the purpose of their investigation of the subject utility's request for an increase in its annual operating revenues:

- (A) All financial records;
- (B) All billing and sales data; and
- (C) All customer information.

(17) Within ten (10) days after the completion of its investigation and audit of a small steam heating utility's requested increase in its annual operating revenues, the commission staff shall send written notice of the results of its investigation and audit to the subject utility and the public counsel. This notification shall include the following information, as applicable:

- (A) The amount of the staff's recommended increase in the subject utility's annual operating revenues, if any, and its supporting audit workpapers;
- (B) The staff's recommended customer rates and its supporting rate design workpapers;
- (C) A bill comparison showing the impact of the staff's annual operating revenue increase and rate design recommendations on typical commercial and industrial customers;
- (D) The staff's recommendations regarding changes to the subject utility's service charges and fees;
- (E) The staff's recommendations regarding changes to or the establishment of plant depreciation rates to be used by the subject utility;
- (F) The staff's recommendations regarding changes to the subject utility's tariff provisions pertaining to the rules and regulations for the provision and/or taking of service;
- (G) The staff's recommendations regarding changes to the operation of the subject utility's system(s);

(H) The staff's recommendations regarding changes to the overall management of the subject utility's operations;

(I) Draft revised tariff sheets reflecting the above staff recommendations; and

(J) A draft disposition agreement reflecting the above staff recommendations.

(18) Within ten (10) days after the date of the notification of the results of the commission staff's investigation and audit, the small steam heating utility and the public counsel shall notify the staff of their positions regarding the staff's results. In the alternative, the subject utility or the public counsel may request that the commission staff arrange a conference to discuss the staff's results and/or their positions regarding those results. If such a request is made, the commission staff shall arrange a conference with the subject utility and the public counsel, with the conference to be held within ten (10) days after the commission staff receives the request.

(19) If negotiations between the commission staff, the small steam heating utility and the public counsel result in a unanimous agreement regarding an increase in the subject utility's annual operating revenues and/or any other matters pertaining to the utility's operations or tariff provisions, including responses to customer concerns, the commission staff shall finalize a written "unanimous agreement regarding disposition of small steam heating utility rate case" for signature by representatives of the utility, the public counsel and staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than thirty (30) days after the date the revisions are received at the commission. In such a situation, no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission.

(20) If negotiations between the commission staff, the small steam heating utility and the public counsel result in an agreement between only the commission staff and the subject utility, the commission staff shall finalize a written "utility/staff agreement regarding disposition of small steam heating utility rate case" for signature by representatives of the utility and the staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than forty-five (45) days after the date the revisions are received at the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission. For a situation such as that described in this section, the disposition agreement shall contain provisions whereby the subject utility acknowledges that the agreement is subject to change in the event the commission holds a local public hearing as provided for in this rule and the commission staff obtains information as a result of the local public hearing that affects the staff's position regarding the resolution of the utility's request, where such information was not previously available to the staff.

(21) For a situation such as that described in either section (19) or (20) of this rule, the commission staff shall file the signed disposition agreement in the subject case file within five

(5) working days after the date the small steam heating utility submits its tariff revisions to the commission.

(22) For a situation such as that described in section (20) of this rule, the small steam heating utility shall mail written notice of the provisions of the utility/staff disposition agreement, including the rates and charges that would result from commission approval of the subject utility's tariff revisions and the impact of those rates on typical commercial and industrial customers' bills, to each of its customers and to each provider of gas service or electric service in the area of the request. The notice, which must be approved by the commission staff prior to being mailed, and which is to be mailed to the customers and the gas and electric service providers within five (5) working days after the date the utility submits its tariff revisions to the commission, shall indicate that responses to the notice are to be provided to the staff and/or the public counsel within twenty (20) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' and gas and electric service providers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers and the gas and electric service providers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the utility/staff agreement, the commission staff and the public counsel shall exchange copies of the comments, and the commission staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(23) For a situation such as that described in section (20) of this rule, the public counsel shall, within thirty (30) days after the date that the small steam heating utility submits its tariff revisions to the commission, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the tariff revisions and the related disposition agreement, and providing the reasons for its position, unless it requests that the commission hold a local public hearing as provided for in section (24) of this rule.

(24) If the public counsel desires the commission to hold a local public hearing, it shall, within thirty (30) days after the date that the small steam heating utility submits its tariff revisions to the commission, file a pleading in the subject case file requesting that the commission do so and affirmatively stating the reasons for the request. The commission staff and the subject utility shall have five (5) working days to respond to public counsel's request for a local public hearing.

(25) If the commission orders that a local public hearing is to be held, the small steam heating utility shall mail written notice of that hearing to each of its customers and to each provider of gas service or electric service in the area of the request, with the notice to be consistent with the commission's order and to be approved by the commission staff before it is mailed. At the same time that the subject utility mails the approved notice to its customers and the gas and electric service providers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel.

(26) If the commission holds a local public hearing, the commission staff shall, within five (5) working days after the local public hearing, file a pleading in the subject case advising the commission whether changes to the utility/staff agreement regarding disposition of small steam heating utility rate case are needed and, if so, the anticipated date for such changes to be made.

(27) If the commission holds a local public hearing, the public counsel shall, within five (5) working days after the date the commission staff makes the filing required by section (26) of this rule, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the small steam heating utility's tariff revisions and the related disposition agreement, and providing the reasons for its position.

(28) Failure of the public counsel to timely file the pleadings required by sections (23), (24) or (27) of this rule will be considered the same as the public counsel's express agreement with the provisions of the small steam heating utility's tariff revisions and the related disposition agreement.

(29) Except as otherwise provided for in this rule, a written disposition agreement regarding a small steam heating utility's rate increase request must be executed by at least the subject utility and the commission staff, and the subject utility must submit its tariff revisions related to the disposition agreement to the commission, within one hundred fifty (150) days after the date the commission establishes a case for consideration of the subject utility's operating revenue increase request. This time period may, however, be extended by consent of the subject utility and the commission staff. Confirmation of the consent for an extension of this one hundred fifty (150)-day time period shall be made in writing, shall include a date certain for the end of the extension, and shall be filed in the subject case file by the commission staff. If necessary, multiple extensions of the one hundred fifty (150)-day time period may be executed.

(30) To the extent that agreement cannot be reached on all issues regarding the disposition of a requested increase in a small steam heating utility's annual operating revenues, the written disposition agreement may include provisions whereby the signatories agree to request that the commission allow the small steam heating utility, the commission staff and the public counsel to enter arbitration on an agreed-upon list of issues of significance to the subject utility's rate case. The arbitration shall be carried out according to the provisions of sections (31) through (36) below.

(31) If the commission approves a request for arbitration, it shall appoint a regulatory law judge, other than the regulatory law judge assigned to the small steam heating utility's pending rate case, to act as the arbitrator.

(32) If the commission approves a request for arbitration, the small steam heating utility may participate in the arbitration hearing either with or without the assistance of counsel.

(33) The arbitrator shall decide the issue(s) being arbitrated based on the methodology known as "final offer" arbitration, under which the parties will present evidence in favor of their respective positions and the arbitrator will adopt the position of one of the parties based upon the evidence and commission precedent.

(34) The arbitration hearing shall proceed as a matter of public record under the following conditions:

(A) At least one (1) week prior to the commencement of the arbitration hearing, the parties shall file their position(s) on the issue(s) being arbitrated, along with statements in support thereof and a list of the evidence the party intends to rely on at the arbitration hearing;

(B) The procedure at the arbitration hearing shall allow the parties the opportunity to present opening statements, to call witnesses and present evidence in support of their positions, to cross-examine other parties' witnesses and to present closing arguments, all of which shall be limited in scope to the issue(s) being arbitrated; and

(C) There will be no written post-hearing briefs, except upon request of the arbitrator.

(35) The arbitrator's decision and the written disposition agreement that contains the resolution of the other issues pertaining to the small steam heating utility's rate case shall be submitted to the commission for its consideration in issuing its report and order regarding the overall resolution of the subject utility's rate case.

(36) Motions for rehearing of the commission's decision regarding the adoption of the arbitrator's decision shall be limited to motions regarding the commission's decision on the entire rate case pursuant to sections 386.500 and 386.510, RSMo.

(37) In the event that the small steam heating utility and the commission staff agree that an increase in the subject utility's annual operating revenues is not necessary, or in the event that the utility advises the commission staff that it no longer wishes to pursue an increase in its annual operating revenues, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(38) In the event that an agreement regarding the disposition of a requested increase in a small steam heating utility's annual operating revenues cannot be reached between at least the commission staff and the subject utility, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(39) For a situation such as that described in section (38) of this rule, the commission staff will send a written notice to the small steam heating utility informing the utility that it may initiate a general rate increase request pursuant to the provisions of 4 CSR 240-2.065(1) and 4 CSR 240-3.030.

(40) A small steam heating utility, the commission staff or the public counsel may file an application for a waiver of any of the provisions of this rule, including the provisions of the case activities timeline, and the commission may grant such a waiver for good cause.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed August 19, 2005.

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

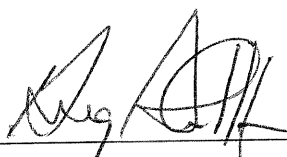
PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Secretary of the Commission, Attn: Data Center, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices within thirty (30) days after publication in the **Missouri Register**. Comments should include a reference to Commission Case No. AX-2005-0363. 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.mo.gov/efis.asp>>. No public hearing is scheduled.*

AFFIDAVIT
(PUBLIC NO COST)

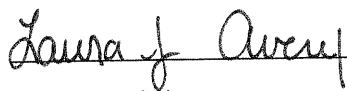
STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Gregory A. Steinhoff, Director of Economic Development, first being duly sworn on my oath, state that it is my opinion that the cost of the **Proposed Rule 4 CSR 240-3.440, Small Steam Heating Utility Rate Case Procedure**, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Gregory A. Steinhoff
Director
Department of Economic Development

Subscribed and sworn to before me this 1 day of August, 2005. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on August 12, 2008.



Notary Public



Robin Carnahan

Secretary of State

Administrative Rules Division

RULE TRANSMITTAL

RECEIVED

AUG 19 2005

SECRETARY OF STATE
ADMINISTRATIVE RULESA "SEPARATE" rule transmittal sheet **MUST** be used for EACH individual rulemaking.A. Rule Number 4 CSR 240-3.635Diskette File Name Proposed Rule 3.635

Name of person to call with questions about this rule:

Content Keith Krueger Phone 573-751-4140 FAX 573-751-9285E-mail address keith.krueger@psc.mo.govData entry Sarah Fontaine Phone 573-522-4619 FAX 573-751-9285E-mail address sarah.fontaine@psc.mo.govInteragency mailing address GOB - 200 Madison St., 8th Floor Jefferson City, MOStatutory Authority 386.410Current RSMo date 2004

Date filed with the Joint Committee on Administrative Rules Exempt per Sections 586.024 and 536.037, RSMo 2000, and Executive Order No. 97-97 (June 27, 1997)

B. CHECKLIST guide for rule packets:

☒ This transmittal completed☐ Forms, number of pages _____☒ Cover letter☒ Authority section with history of the rule☒ Affidavit☒ Public cost statement☒ Small business impact statement☒ Private cost statement☐ Fiscal notes☐ Hearing date _____

C. RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination**MUST** include effective date _____☒ Proposed Rulemaking (choose one) ☒ rule, ☐ amendment, or ☐ rescission☐ Order of Rulemaking (choose one) ☐ rule, ☐ amendment, ☐ rescission, or ☐ termination**MUST** complete page 2 of this transmittal☐ Withdrawal (choose one) ☐ rule, ☐ amendment, ☐ rescission or ☐ emergency☐ Rule action notice ☐ In addition ☐ Rule under consideration

D. SPECIFIC INSTRUCTIONS: Any additional information you may wish to provide to our staff _____

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

RULE TRANSMITTAL (PAGE 2)

E. ORDER OF RULEMAKING: Rule Number _____

1a. Effective Date for the Order

☐ Statutory 30 days

Specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?

☐ YES ☐ NO

1c. If the answer is YES, please complete section F.

If the answer is NO, **STOP** here.

F. Please provide a complete list of the changes in the rule text for the order of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. Give an explanation of each section, subsection, etc. which has been changed since the proposed rulemaking was published in the Register.

NOTE: ALL changes MUST be specified here in order for those changes to be made in the rule as published in the *Missouri Register* and the *Code of State Regulations*.

Add additional sheet(s), if more space is needed.



Commissioners

JEFF DAVIS
Chairman

CONNIE MURRAY

STEVE GAW

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

Missouri Public Service Commission

POST OFFICE BOX 360
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573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.mo.gov>

WESS A. HENDERSON
Executive Director

ROBERT SCHALLENBERG
Director, Utility Services

WARREN WOOD
Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

August 19, 2005

Honorable Robin Carnahan
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Dear Secretary Carnahan:

Re: Rule 4 CSR 240-3.635 (Small Water Utility Rate Case Procedure)

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed rule lawfully submitted by the Missouri Public Service Commission on this 19th day of August 2005.

Section 536.300, RSMo Supp. 2004 requires state agencies to "determine whether the proposed rulemaking affects small businesses and, if so, the availability and practicability of less-restrictive alternatives that could be implemented to achieve the same results of the proposed rulemaking." A small business is defined to be "a for-profit enterprise consisting of fewer than fifty full- or part-time employees." A proposed rule "affects" a small business if it imposes any requirement that "will cause direct and significant economic burden upon a small business or minority small business."

The proposed rescissions and proposed new, rewritten rules that are the subject of Commission Case No. AX-2005-0363 do not impose any requirement that "will cause direct and significant economic burden upon a small business or minority small business," and the Commission thus certifies that it has determined that the proposed rules will not affect small businesses.

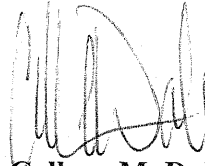
The Public Service Commission also certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to section 536.017, RSMo and that this proposed rule does not constitute a taking of real property under relevant state and federal law.

Statutory authority: Section 386.410, RSMo Supp. 2004.

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

Name: Keith R. Krueger, Deputy General Counsel
Address: Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, Missouri 65102
Phone No.: (573) 751-4140
E-mail: keith.krueger @psc.mo.gov

BY THE COMMISSION

A handwritten signature in dark ink, appearing to read 'Colleen M. Dale', is written over a faint, circular embossed seal of the Missouri Public Service Commission.

Colleen M. Dale
Secretary

Enclosures: Proposed Rescission 4 CSR 240-3.635 (Small Water Utility Rate Case Procedure);
Affidavit; electronic copy on 3.5" diskette; Rule Transmittal.

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

RECEIVED

AUG 19 2005

SECRETARY OF STATE
ADMINISTRATIVE RULES

PROPOSED RULE

4 CSR 240-3.635 Small Water Utility Rate Case Procedure

PURPOSE: This rule provides procedures whereby small water utilities may request increases in their overall annual operating revenues, without the necessity of meeting the filing requirements for general rate increases set forth in 4 CSR 240-2.065(1) and 4 CSR 240-3.030.

- (1) Notwithstanding the provisions of any other commission rule to the contrary, a water utility serving eight thousand (8,000) or fewer customers (small water utility) may request an increase in its overall annual operating revenues through the procedures set forth in this rule.
- (2) A small water utility may initiate a small utility rate case by submitting a letter directed to the manager of the commission's water and sewer department, wherein the subject utility requests an increase in its overall annual operating revenues and provides the information required by section (6) of this rule. A small water utility submitting such a request shall not submit any proposed tariff revisions with the request. A letter initiating a small utility rate case may be submitted in hard copy to the manager of the water and sewer department or may be submitted via the commission's electronic filing and information system. If a letter initiating a small utility rate case is submitted in hard copy to the manager of the water and sewer department, the manager shall, not later than one (1) working day after receipt of the letter, forward the letter to the commission's data center for entry into the commission's electronic filing and information system.
- (3) At the time that a small water utility submits a letter to initiate a small utility rate case, it shall also provide a copy of the letter to the office of the public counsel (public counsel).
- (4) A small water utility that also operates a water system may submit a request for an increase in only its water service annual operating revenues; provided, however, that the commission staff and the public counsel are authorized to also review the earnings status of subject utility's water system operations in making their determination of whether an increase in the utility's water service annual operating revenues is warranted.
- (5) A small water utility that provides service in multiple, non-interconnected service areas may only submit a request for an increase in its annual operating revenues that is applicable to all of the service areas. For such situations, information related to the subject utility's cost of providing service (i.e. – plant balances, revenues and expenses) for each service area must be made available for the commission staff's and the public counsel's review of the utility's operating revenue increase request.
- (6) A small water utility's letter requesting an increase in its annual operating revenues shall include, at a minimum, the following information:

- (A) The amount of additional annual operating revenues being requested;
- (B) The reason(s) for the requested increase in the utility's annual operating revenues;
- (C) A statement acknowledging that the design of the utility's customer rates will be reviewed as a part of the commission staff's audit of the request;
- (D) A statement acknowledging that the utility's service charges or fees will be reviewed as a part of the commission staff's audit of the request;
- (E) A statement acknowledging that the utility's tariff provisions regarding its rules and regulations for the provision and/or taking of service will be reviewed as a part of the commission staff's audit of the request;
- (F) A statement acknowledging that the utility's depreciation rates will be reviewed as a part of the commission staff's audit of the request;
- (G) A statement that the utility is current on the payment of all its commission assessments, noting whether the most recent assessment has been paid in full or is being paid under an installment plan;
- (H) A statement that the utility is current on the submission of its most recently required commission annual report;
- (I) A statement that the utility is current on the submission of its most recently required commission annual statement of operating revenue;
- (J) A statement that the utility is current on the payment of any required fees administered by the Missouri Department of Natural Resources (MDNR); and
- (K) A statement that the utility is in good standing with the Missouri Secretary of State, if applicable.

(7) After a tracking file for a small water utility's request for an increase in its annual operating revenues has been established in the commission's electronic filing and information system, the commission staff shall determine whether the subject utility's request contains the information required by section (6) of this rule, and whether the statements required by subsections (6)(G)-(K) of this rule are accurate, with such determinations to be made within five (5) working days after the small company rate increase request tracking file is established.

(8) If the commission staff determines that a small water utility's request for an increase in its annual operating revenues includes the information required by section (6) of this rule, and that the statements required by subsections (6)(G)-(K) of this rule are accurate, the staff shall, within five (5) working days after that determination is made, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion a copy of the utility's request letter.

(9) If the commission staff determines that a small water utility's request for an increase in its annual operating revenues does not include the information required by section (6) of this rule, or that any of the statements required by subsections (6)(G)-(K) of this rule are not accurate, the staff will return the request to the subject utility along with a written explanation of the deficiencies. In such a situation, consideration of the subject utility's request will be suspended until such time as the utility corrects the referenced deficiencies, and the utility will be notified of that suspension as a part of the written explanation of the deficiencies in the revenue increase request.

(10) For a situation such as that described in section (9) of this rule, the commission staff shall, within five (5) working days after the date that the small water utility corrects the referenced deficiencies, file a motion with the commission requesting that a case be established for consideration of the subject utility's request and shall attach to that motion copies of the subject utility's request letter and the correspondence between the commission staff and the utility pertaining to the referenced deficiencies.

(11) For a situation such as that described in section (9) of this rule, if the referenced deficiencies are not corrected within thirty (30) days after the date the small water utility is notified of the deficiencies, the commission staff will submit a notice regarding this matter to the tracking file in the commission's electronic filing and information system that was established when the rate increase request was received, and the subject utility's request will be treated as having been withdrawn by the utility. In such a situation, the staff will send a written notice to the subject utility regarding the status of its request and as a part of that notice will advise the utility of its right to submit a new request once it has corrected the referenced deficiencies.

(12) At the time that the commission staff files a motion requesting that the commission establish a case for consideration of a small water utility's request for an increase in its annual operating revenues, the staff shall include with that motion a case activities timeline under which the case will proceed, unless the timeline is modified pursuant to the provisions of sections (28) or (39) of this rule. In the event that the case activities timeline is modified pursuant to the provisions of sections (28) or (39), the commission staff shall file an updated version of the timeline reflecting the modifications made.

(13) After a case is established for consideration of a small water utility's request for an increase in its annual operating revenues, the subject utility must stay current on the payment of its commission assessments, the submission of its commission annual reports, the submission of its commission annual statement of operating revenue and the payment of its MDNR fees, and must remain in good standing with the Missouri Secretary of State, if applicable. If these requirements are not met, consideration of the request will be suspended until such time that the subject utility corrects the deficiencies. If such a suspension is necessary, the commission staff shall send written notice of the suspension to the subject utility and shall also file that notice in the subject case file. In such a situation, the time period set forth in section (28) of this rule will be extended by an amount of time equal to the amount of time that it takes the subject utility to correct the referenced deficiencies. Additionally, if the referenced deficiencies are not corrected within thirty (30) days after the date the subject utility is notified of the deficiencies, the commission staff shall have the right to file a motion requesting that the utility's rate case be closed, without prejudice to the utility's right to submit a new request for an increase in its operating revenues once it has corrected the referenced deficiencies.

(14) After a case is established for consideration of a small water utility's request for an increase in its annual operating revenues, the subject utility shall mail written notice of the request, including the impact of the requested increase on an average residential customer's bill, to each of its customers. The notice, which must be approved by the commission staff prior to being mailed, shall indicate that comments regarding the utility's revenue increase request, or any other matters pertaining to the utility's operations, are to be provided to the staff and/or the public

counsel within thirty (30) days after the date shown on the notice. The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the company's request, the commission staff and the public counsel shall exchange copies of the comments, and the staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(15) After a case is established for consideration of a small water utility's request for an increase in its annual operating revenues, the commission staff shall schedule an investigation of the subject utility's operations and an audit of the utility's financial books and records. If public counsel wishes to conduct an independent investigation and audit of the subject utility, it must do so within the same time period as the commission staff's investigation and audit, as provided for in the case activities timeline.

(16) Within ten (10) days after the completion of its investigation and audit of a small water utility's requested increase in its annual operating revenues, the commission staff shall send written notice of the results of its investigation and audit to the subject utility and the public counsel. This notification shall include the following information, as applicable:

- (A) The amount of the staff's recommended increase in the subject utility's annual operating revenues, if any, and its supporting audit workpapers;
- (B) The staff's recommended customer rates and its supporting rate design workpapers;
- (C) A bill comparison showing the impact of the staff's annual operating revenue increase and rate design recommendations on an average residential customer;
- (D) The staff's recommendations regarding changes to the subject utility's service charges and fees;
- (E) The staff's recommendations regarding changes to or the establishment of plant depreciation rates to be used by the subject utility;
- (F) The staff's recommendations regarding changes to the subject utility's tariff provisions pertaining to the rules and regulations for the provision and/or taking of service;
- (G) The staff's recommendations regarding changes to the operation of the subject utility's system(s);
- (H) The staff's recommendations regarding changes to the overall management of the subject utility's operations;
- (I) Draft revised tariff sheets reflecting the above staff recommendations; and
- (J) A draft disposition agreement reflecting the above staff recommendations.

(17) Within ten (10) days after the date of the notification of the results of the commission staff's investigation and audit, the small water utility and the public counsel shall notify the staff of their positions regarding the staff's results. In the alternative, the subject utility or the public counsel may request that the commission staff arrange a conference to discuss the staff's results and/or their positions regarding those results. If such a request is made, the commission staff

shall arrange a conference with the subject utility and the public counsel, with the conference to be held within ten (10) days after the commission staff receives the request.

(18) If negotiations between the commission staff, the small water utility and the public counsel result in a unanimous agreement regarding an increase in the subject utility's annual operating revenues and/or any other matters pertaining to the utility's operations or tariff provisions, including responses to customer concerns, the commission staff shall finalize a written "unanimous agreement regarding disposition of small water utility rate case" for signature by representatives of the utility, the public counsel and staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than thirty (30) days after the date the revisions are received at the commission. In such a situation, no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission.

(19) If negotiations between the commission staff, the small water utility and the public counsel result in an agreement between only the commission staff and the subject utility, the commission staff shall finalize a written "utility/staff agreement regarding disposition of small water utility rate case" for signature by representatives of the utility and the staff. Upon completion and signing of such a disposition agreement, the subject utility may then submit tariff revisions reflecting the terms of that agreement to the commission. Such tariff revisions shall bear an effective date that is not fewer than forty-five (45) days after the date the revisions are received at the commission. A copy of the subject utility's tariff revisions shall be provided to the public counsel at the same time that the utility submits the revisions to the commission. For a situation such as that described in this section, the disposition agreement shall contain provisions whereby the subject utility acknowledges that the agreement is subject to change in the event the commission holds a local public hearing as provided for in this rule and the commission staff obtains information as a result of the local public hearing that affects the staff's position regarding the resolution of the utility's request, where such information was not previously available to the staff.

(20) For a situation such as that described in either section (18) or (19) of this rule, the commission staff shall file the signed disposition agreement in the subject case file within five (5) working days after the date the small water utility submits its tariff revisions to the commission.

(21) For a situation such as that described in section (19) of this rule, the small water utility shall mail written notice of the provisions of the utility/staff disposition agreement, including the rates and charges that would result from commission approval of the subject utility's tariff revisions and the impact of those rates on an average residential customer's bill, to each of its customers. The notice, which must be approved by the commission staff prior to being mailed, and which is to be mailed to the customers within five (5) working days after the date the utility submits its tariff revisions to the commission, shall indicate that responses to the notice are to be provided to the staff and/or the public counsel within twenty (20) days after the date shown on the notice.

The notice shall include mailing addresses, telephone numbers, including the commission's toll-free customer service telephone number, facsimile numbers, and e-mail addresses for the commission staff and the public counsel, for the customers' use in responding to the notice. At the same time that the subject utility mails the approved notice to its customers, it shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel. Upon receipt of comments regarding the utility/staff agreement, the commission staff and the public counsel shall exchange copies of the comments, and the commission staff will file copies of the comments, and any staff responses thereto, in the subject case file.

(22) For a situation such as that described in section (19) of this rule, the public counsel shall, within thirty (30) days after the date that the small water utility submits its tariff revisions to the commission, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the tariff revisions and the related disposition agreement, and providing the reasons for its position, unless it requests that the commission hold a local public hearing as provided for in section (23) of this rule.

(23) If the public counsel desires the commission to hold a local public hearing, it shall, within thirty (30) days after the date that the small water utility submits its tariff revisions to the commission, file a pleading in the subject case file requesting that the commission do so and affirmatively stating the reasons for the request. The commission staff and the subject utility shall have five (5) working days to respond to public counsel's request for a local public hearing.

(24) If the commission orders that a local public hearing is to be held, the small water utility shall mail written notice of that hearing to its customers, with the notice to be consistent with the commission's order and to be approved by the commission staff before it is mailed. At the same time that it mails the approved notice to its customers, the subject utility shall also submit a copy of the notice to the commission's data center for placement in the subject case file and send a copy of the notice to the commission staff and the public counsel.

(25) If the commission holds a local public hearing, the commission staff shall, within five (5) working days after the local public hearing, file a pleading in the subject case advising the commission whether changes to the utility/staff agreement regarding disposition of small water utility rate case are needed and, if so, the anticipated date for such changes to be made.

(26) If the commission holds a local public hearing, the public counsel shall, within five (5) working days after the date the commission staff makes the filing required by section (25) of this rule, file a pleading in the subject case file stating whether it agrees or disagrees with, or does not object to, the provisions of the small water utility's tariff revisions and the related disposition agreement, and providing the reasons for its position.

(27) Failure of the public counsel to timely file the pleadings required by sections (22), (23) or (26) of this rule will be considered the same as the public counsel's express agreement with the provisions of the small water utility's tariff revisions and the related disposition agreement.

(28) Except as otherwise provided for in this rule, a written disposition agreement regarding a small water utility's rate increase request must be executed by at least the subject utility and the commission staff, and the subject utility must submit its tariff revisions related to the disposition agreement to the commission, within one hundred fifty (150) days after the date the commission establishes a case for consideration of the subject utility's operating revenue increase request. This time period may, however, be extended by consent of the subject utility and the commission staff. Confirmation of the consent for an extension of this one hundred fifty (150)-day time period shall be made in writing, shall include a date certain for the end of the extension, and shall be filed in the subject case file by the commission staff. If necessary, multiple extensions of the one hundred fifty (150)-day time period may be executed.

(29) To the extent that agreement cannot be reached on all issues regarding the disposition of a requested increase in a small water utility's annual operating revenues, the written disposition agreement may include provisions whereby the signatories agree to request that the commission allow the small water utility, the commission staff and the public counsel to enter arbitration on an agreed-upon list of issues of significance to the subject utility's rate case. The arbitration shall be carried out according to the provisions of sections (30) through (35) below.

(30) If the commission approves a request for arbitration, it shall appoint a regulatory law judge, other than the regulatory law judge assigned to the small water utility's pending rate case, to act as the arbitrator.

(31) If the commission approves a request for arbitration, the small water utility may participate in the arbitration hearing either with or without the assistance of counsel.

(32) The arbitrator shall decide the issue(s) being arbitrated based on the methodology known as "final offer" arbitration, under which the parties will present evidence in favor of their respective positions and the arbitrator will adopt the position of one of the parties based upon the evidence and commission precedent.

(33) The arbitration hearing shall proceed as a matter of public record under the following conditions:

(A) At least one (1) week prior to the commencement of the arbitration hearing, the parties shall file their position(s) on the issue(s) being arbitrated, along with statements in support thereof and a list of the evidence the party intends to rely on at the arbitration hearing;

(B) The procedure at the arbitration hearing shall allow the parties the opportunity to present opening statements, to call witnesses and present evidence in support of their positions, to cross-examine other parties' witnesses and to present closing arguments, all of which shall be limited in scope to the issue(s) being arbitrated; and

(C) There will be no written post-hearing briefs, except upon request of the arbitrator.

(34) The arbitrator's decision and the written disposition agreement that contains the resolution of the other issues pertaining to the small water utility's rate case shall be submitted to the commission for its consideration in issuing its report and order regarding the overall resolution of the subject utility's rate case.

(35) Motions for rehearing of the commission's decision regarding the adoption of the arbitrator's decision shall be limited to motions regarding the commission's decision on the entire rate case pursuant to sections 386.500 and 386.510, RSMo.

(36) In the event that the small water utility and the commission staff agree that an increase in the subject utility's annual operating revenues is not necessary, or in the event that the utility advises the commission staff that it no longer wishes to pursue an increase in its annual operating revenues, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(37) In the event that an agreement regarding the disposition of a requested increase in a small water utility's annual operating revenues cannot be reached between at least the commission staff and the subject utility, the commission staff shall file a verified statement to that effect in the subject case file. Subsequent to the filing of such a verified staff statement, the commission will issue a notice closing the subject case.

(38) For a situation such as that described in section (37) of this rule, the commission staff will send a written notice to the small water utility informing the utility that it may initiate a general rate increase request pursuant to the provisions of 4 CSR 240-2.065(1) and 4 CSR 240-3.030.

(39) A small water utility, the commission staff or the public counsel may file an application for a waiver of any of the provisions of this rule, including the provisions of the case activities timeline, and the commission may grant such a waiver for good cause.

AUTHORITY: section 386.410, RSMo 2000. Original rule filed August 19, 2005.

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

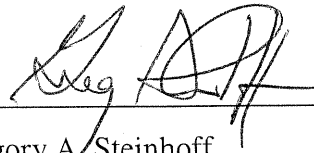
PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Secretary of the Commission, Attn: Data Center, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices within thirty (30) days after publication in the **Missouri Register**. Comments should include a reference to Commission Case No. AX-2005-0363. 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.mo.gov/efis.asp>>. No public hearing is scheduled.*

AFFIDAVIT
(PUBLIC NO COST)

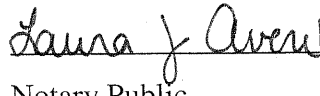
STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Gregory A. Steinhoff, Director of Economic Development, first being duly sworn on my oath, state that it is my opinion that the cost of the **Proposed Rule 4 CSR 240-3.635, Small Water Utility Rate Case Procedure**, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Gregory A. Steinhoff
Director
Department of Economic Development

Subscribed and sworn to before me this 1 day of August, 2005. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on August 12, 2008.



Notary Public



MEMORANDUM

TO: Colleen M. Dale, Secretary

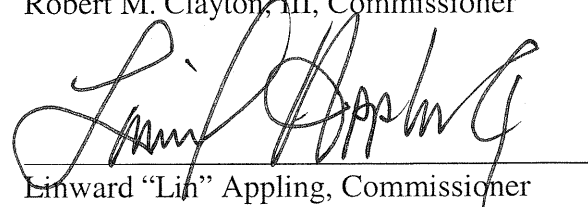
DATE: August 11, 2005

RE: Authorization to File Notices of Proposed Rescission and Notices of Proposed Rulemaking -- Rules 4 CSR 240-3.240, 4 CSR 240-3.330, 4 CSR 240-3.440, and 4 CSR 240-3.635, with the Office of the Secretary of State

CASE NO.: AX-2005-0363

The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file Notices of Proposed Rescission for each of the following rules with the Office of the Secretary of State, and to file Notices of Proposed Rulemaking for each of the following rules with the Office of the Secretary of State, to-wit:

4 CSR 240-3.240	Small Gas Utility Rate Case Procedure
4 CSR 240-3.330	Small Sewer Utility Rate Case Procedure
4 CSR 240-3.440	Small Steam Heating Utility Rate Case Procedure
4 CSR 240-3.635	Small Water Utility Rate Case Procedure


Jeff Davis, Chairman
Connie Murray, Commissioner
Steve Gaw, Commissioner
Robert M. Clayton, III, Commissioner
Linward "Lin" Appling, Commissioner