

John R. Ashcroft

**Secretary of State
Administrative Rules Division**

RULE TRANSMITTAL

Administrative Rules Stamp

RECEIVED

JUN 14 2018

SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-10.145

COPY

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

Name of person to call with questions about this rule:

Content Ron Pridgin Phone 573-751-7497 FAX 573-526-6010

Email address ron.pridgin@psc.mo.gov

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

Email address Christine.koenigsfeld@psc.mo.gov

Interagency mailing address Public Service Commission, 9th Fl., Gov. Ofc. Bldg., JC, MO

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☒ Proposed Rulemaking

☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Request for Non-Substantive Change

☐ Statement of Actual Cost Order of Rulemaking

Effective Date for the Order _____

☐ Statutory 30 days OR Specific date _____

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☐ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

**Small Business Regulatory
Fairness Board (DED) Stamp**

SMALL BUSINESS
REGULATORY FAIRNESS BOARD

JUN 14 2018

RECEIVED

JCAR Stamp

JOINT COMMITTEE ON

JUN 14 2018

ADMINISTRATIVE RULES



Commissioners

DANIEL Y. HALL
Chairman

WILLIAM P. KENNEY

SCOTT T. RUPP

MAIDA J. COLEMAN

RYAN A. SILVEY

Missouri Public Service Commission

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

SHELLEY BRUEGGEMANN
General Counsel

MORRIS WOODRUFF
Secretary

LOYD WILSON
Director of Administration

NATELLE DIETRICH
Staff Director

June 14, 2018

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

Re: 4 CSR 240-10.145 Annual Report of Submission Requirements for Electric, Gas, Water,
Sewer, and Steam Heating Utilities

Dear Secretary Ashcroft,

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.

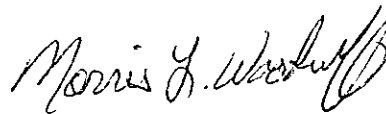
The Public Service Commission has determined and hereby certifies that this proposed rule will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether there has been a taking of real property pursuant to section 536.017,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

The Public Service Commission has determined and hereby also certifies that this proposed rule complies with the small business requirements of 1.310, RSMo, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo, by exempting any small business consisting of fewer than fifty full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

Statutory Authority: section 386.250 and 393.140, RSMo 2000.

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

Morris Woodruff, Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-2849
Morris.Woodruff@psc.mo.gov

A handwritten signature in black ink, appearing to read "Morris L. Woodruff", with a stylized flourish at the end.

Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures



GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

ERIC R. GREITENS
GOVERNOR

P.O. Box 720
(573) 751-3222

April 12, 2018

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

Dear Chairman Hall:

This office has received your Order of Rulemaking of the regulations listed below. We understand these amendments have been proposed to cut red tape in Missouri.

- 4 CSR 240-10.145 – Annual Report Submission Requirements for Electric, Gas, Water, Sewer, and Steam Heating Utilities
- 4 CSR 240-10.135 – Filing Requirements for Electric, Gas, Water, Sewer, and Steam Heating Utility Applications for Authority to Acquire the Stock of a Public Utility
- 4 CSR 240-10.125 – Filing Requirements for Electric, Gas, Water, Sewer, and Steam Heating Utility Applications for Authority to Issue Stock, Bonds, Notes and Other Evidences of Indebtedness
- 4 CSR 240-10.115 - Filing Requirements for Electric, Gas, Water, Sewer, and Steam Heating Utility Applications for Authority to Merge or Consolidate
- 4 CSR 240-10.105 – Filing Requirements for Electric, Gas, Water, Sewer, and Steam Heating Utility Applications for Authority to Sell, Assign, Lease or Transfer Assets

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

Sincerely,

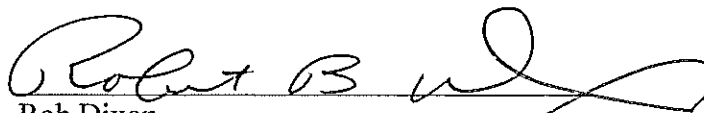
A handwritten signature in black ink, appearing to read "Justin D. Smith".

Justin D. Smith
Deputy Counsel

**AFFIDAVIT
PUBLIC COST**

**STATE OF MISSOURI)
)
COUNTY OF COLE)**

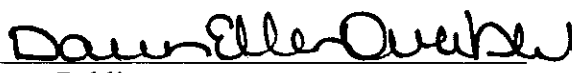
I, Rob Dixon, Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed rule, 4 CSR 240-10.145, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.


Rob Dixon
Director
Department of Economic Development

Subscribed and sworn to before me this 4th day of May, 2018 I am
commissioned as a notary public within the County of Moniteau, State of
Missouri, and my commission expires on Dec. 13, 2019



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


Notary Public

Title 4 – DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 10 – Utilities

PROPOSED RULE

4 CSR 240-10.145 Annual Report Submission Requirements for Electric, Gas, Water, Sewer, and Steam Heating Utilities

***PURPOSE:** Section 393.140(6), RSMo, includes an obligation for the commission to require every person and corporation under its supervision to submit an annual report to the commission. This rule establishes the standards for the submission of annual reports by electric, gas, water, sewer, and steam heating utilities that are subject to the jurisdiction of the commission, including the procedures for submitting nonpublic annual report information.*

(1) All electric, gas, water, sewer, and steam heating utilities shall submit an annual report to the commission on or before April 15 of each year, except as otherwise provided for in this rule.

(2) Annual reports shall be submitted either on a form provided by the commission or on a computer-generated replica that is acceptable to the commission. Reports being submitted on paper are to be prepared in looseleaf format and sent to the attention of the secretary of the commission. Computer-generated reports can be submitted through the commission's electronic filing and information system (EFIS). Attempts to substitute forms such as stockholder reports without concurrently submitting official commission forms with appropriate cross-references will be considered noncompliant. All requested information shall be included in the annual report, where applicable, even if it has been provided in a previous annual report.

(3) A utility that receives a notice from the commission stating that deficiencies exist in the information provided in the annual report shall respond to that notice within twenty (20) days after the date of the notice, and shall provide the information requested in the notice in its response.

(4) If a utility subject to this rule considers the information requested on the annual report form to be nonpublic information, it must submit both a fully completed version to be kept under seal and a redacted public version that clearly informs the reader that the redacted information has been submitted as nonpublic information to be kept under seal. Submittals made under this section that do not include both versions will be considered deficient. The staff on behalf of the commission will issue a deficiency letter to the company and if both versions of the annual report are not received within twenty (20) days of the notice, the submittal will be considered noncompliant. In addition to the foregoing, submittals made under this section must meet the following requirements:

(A) A cover letter stating that the utility is designating some or all of the information in its annual report as confidential information, and including the name, phone number and e-mail address (if available) of the person responsible for addressing questions regarding the confidential portions of the annual report, must be submitted with the reports;

RECEIVED

JUN 14 2018

SECRETARY OF STATE
ADMINISTRATIVE RULES

COPY

JOINT COMMITTEE ON

JUN 14 2018

ADMINISTRATIVE RULES

(B) The cover of each version of the report must clearly identify whether it is the public or nonpublic version;

(C) A detailed affidavit that identifies the specific types of information to be kept under seal, provides a reason why the specific information should be kept under seal and states that none of the information to be kept under seal is available to the public in any format must be prominently attached to both versions of the report; and

(D) Each page of each version of the report that contains nonpublic information shall be clearly identified as containing such information.

(5) If an entity asserts that any of the information contained in the nonpublic version of the annual report should be made available to the public, then that entity must file a pleading with the commission requesting an order to make the information available to the public, and shall serve a copy of the pleading on the utility affected by the request. The pleading must explain how the public interest is better served by disclosure of the information than the reason provided by the utility justifying why the information should be kept under seal. The utility affected by the request may file a response to a pleading filed under these provisions within fifteen (15) days after the filing of such a pleading. Within five (5) business days after the due date for the filing of the utility's response to a request filed under these provisions, the general counsel by filing of a pleading will make a recommendation to the commission advising whether the request should be granted.

(6) A utility subject to this rule that is unable to meet the submission date established in section (1) of this rule may obtain an extension of up to thirty (30) days for submitting its annual report by—

(A) Submitting a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15; and

(B) Certifying that a copy of the written request was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(7) A utility subject to this rule that is unable to meet the submission date established in section (1) of this rule may request an extension of greater than thirty (30) days for submitting its annual report by—

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240, which states the reason for and the length of the extension being requested, with the commission prior to April 15; and

(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.

(8) Responses to deficiency notices under the provisions of section (3) of this rule, requests for confidential treatment under the provisions of section (4) of this rule, pleadings requesting public disclosure of information contained under seal under the provisions of section (5) of this rule, and requests for extensions of time under the provisions of sections (6) or (7) of this rule may be submitted through the commission's electronic filing and information system (EFIS).

(9) A utility subject to this rule that does not timely file its annual report, or its response to a notice that its annual report is deficient, is subject to a penalty of one hundred dollars (\$100) and an additional penalty of one hundred dollars (\$100) for each day that it is late in filing its annual report or its response to a notice of deficiency.

*AUTHORITY: sections 386.250 and 393.140, RSMo 2000. * Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Nov. 7, 2003, effective April 30, 2004.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, RSMo 1939, amended 1949, 1967.*

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 OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street. P.O. Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before August 15, 2018, and should include a reference to Commission Case No. AX-2018-0257. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.mo.gov/efis.asp>. A public hearing is scheduled for Wednesday, August 22, 2018 at 2:00 p.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions. Any persons with special needs, as addressed by the Americans with Disabilities Act, should contact the Missouri Public Service Commission at least ten (10) days prior to the hearing at one (1) of the following numbers: Consumer Services Hotline 1-800-392-4211 or TDD Hotline 1-800-829-7541.

Small Business Regulator Fairness Board

Small Business Impact Statement

Date: March 13, 2018

Rule Number: 4 CSR 240-10.145 Annual Report Submission Requirements for Electric, Gas, Water, Sewer, and Steam Heating Utilities

Name of Agency Preparing Statement: Missouri Public Service Commission

Name of Person Preparing Statement: Jamie Myers

Phone Number: 573-526-6036

Email: jamie.myers@psc.mo.gov

Name of Person Approving Statement: Natelle Dietrich

Please describe the methods your agency considered or used to reduce the impact on small businesses *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

This proposed rule would apply to electric, gas, water, sewer, and steam heating. Currently, there are 5 different rules that repeat the same requirements for each utility type. This proposed rule would consolidate and simplify the previous versions.

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

The Commission held a workshop and two public hearings.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

It is anticipated the proposed rule will result in a net benefit to the Commission and other affected agencies because it consolidates and streamlines the Commission's rules. No additional fees will be imposed.

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

Small utilities are already required to provide the Commission with an Annual Report. This proposed rule would not change those reporting requirements and no adverse impact is expected.

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

None identified.

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

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

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes___ No_X__

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.