



Robin Carnahan
Secretary of State

**Administrative Rules Division
Rulemaking Transmittal Receipt**

Rule ID: 8357
Date Printed: 2/26/2008
Rule Number: 4 CSR 240-3.050
Rulemaking Type: Final Order Rule
Date Submitted to Administrative Rules Division: 2/26/2008
Date Submitted to Joint Committee on Administrative Rules: 1/25/2008

Name of Person to Contact with questions concerning this rule:

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Included with Rulemaking:

Cover Letter

2/26/2008

Print Close

Robin Carnahan

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-3.050

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

Name of person to call with questions about this rule:

Content Cully Dale Phone 573-751-4255 FAX

Email address cully.dale@psc.mo.gov

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Interagency mailing address Public Serv. Comm'n, 9th Fl., Governor Ofc. Bldg., Jeff. City

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency rulemaking, include effective date

☐ Proposed Rulemaking

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

☒ 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:

(3), (11), (18), (20), (21), (22), (23), (24), (25)

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REGULATORY FAIRNESS
BOARD

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JAN 25 2008

ADMINISTRATIVE RULES



Commissioners

JEFF DAVIS
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CONNIE MURRAY

TERRY JARRETT

ROBERT M. CLAYTON III

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Missouri Public Service Commission

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Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

KEVIN A. THOMPSON
General Counsel

February 26, 2008

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

Dear Secretary Carnahan:

Re: 4 CSR 240-123.080 Small Utility Rate Case Procedure

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the order of rulemaking lawfully submitted by the Missouri Public Service Commission for filing on this 26th day of February, 2008.

Statutory Authority: Sections 386.040, 386.250, 393.140 and 393.290, RSMo 2000, and 393.291, RSMo Supp. 2006

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

Colleen M. Dale, Secretary
Missouri Public Service Commission
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Jefferson City, MO 65102
(573) 751-4255
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BY THE COMMISSION

Colleen M. Dale
Secretary
Missouri Public Service Commission

**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**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.040, 386.250, 393.140 and 393.290, RSMo 2000, and 393.291, RSMo Supp. 2006, the commission adopts a rule as follows

4 CSR 240-3.050 is adopted.

A notice of proposed rulemaking containing the text of the proposed amendments was published in the *Missouri Register* on December 17, 2007 (32 MoReg 2498). Those sections with changes are reprinted here. These proposed amendments become effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendments was held December 17, 2007, and the public comment period ended December 17, 2007. One written comment was received from the Raytown Water Company in general support of the rule, one verbal comment was made by the Office of the Public Counsel, also in general support and one person testified at the hearing. The person testifying at the hearing was Dale Johansen on behalf of the staff of the Missouri Public Service Commission. Mr. Johansen generally supported the rule, but suggested minor changes as set out below.

COMMENT: Change the word "will" to "shall" where it appears in sections (3) and (25).

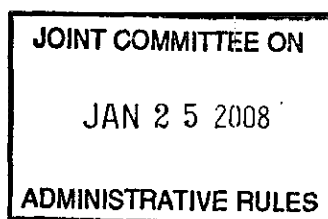
RESPONSE: The suggested changes are reasonable and will be made.

COMMENT: In section (11), second sentence, clarify "this" by replacing it with "the filing of the disposition agreement." In the same section, add "regarding unresolved issues identified in the agreement" to the end of the last sentence.

RESPONSE: The suggested changes are reasonable and will be made.

COMMENT: Remove the word "approved" from the last sentence of section (18).

RESPONSE: The suggested changes are reasonable and will be made.



COMMENTS: Create a new section (26), consisting of the last sentence of proposed section (25) and slightly modified proposed section (22), which more clearly states the Commission's discretion in these cases. In conjunction therewith, delete the last sentence of section (25) and section (22), and renumber and change references to those sections accordingly.

RESPONSE: The suggested changes are reasonable and will be made.

4 CSR 240-3.050 Small Utility Rate Case Procedure

(3) When a small utility's letter is filed, the secretary shall cause a rate case to be opened, but no specific actions shall be taken in that case, pending completion of the process set out in this rule, including the possible mediation or arbitration of issues among the parties. The regulatory law judge assigned to the case may be asked at any time to mediate disputes that may arise while the case is pending. If the commission staff (staff) and the utility do not reach agreement on a full resolution of the utility's revenue increase request, they may elect to arbitrate unresolved issues. Such arbitration will allow the utility, the staff and the public counsel to present their positions on the unresolved issues to the regulatory law judge, who shall establish, on a case-by-case basis, procedures for identification and submission of issues and the presentation of the parties' positions. Parties need not be represented by counsel during arbitration, and each issue will be determined using the "final offer" method, under which the position of one of the parties will be adopted based upon the evidence presented and commission precedent. The regulatory law judge shall issue a written opinion resolving all issues presented for arbitration within twenty (20) days of the close of the arbitration proceeding. The arbitration decision and any partial, unanimous or non-unanimous disposition agreement will be submitted to the commission for its consideration in issuing its decision regarding the resolution of the utility's revenue increase request.

(11) No later than one hundred fifty (150) days after a case is opened, the staff shall file a disposition agreement between at least the staff and the utility providing for a full or partial resolution of the utility's revenue increase request. At any time prior to the filing of the disposition agreement, the assigned regulatory law judge may be called upon to meet with the participants and mediate discussions to assist them in reaching at least a partial agreement. If the disposition agreement filed by the staff provides for only partial resolution of the utility's request, it may contain provisions whereby the signatories request that the assigned regulatory law judge initiate an arbitration procedure regarding unresolved issues identified in the agreement.

(18) If a local public hearing is set, the utility shall mail written notice of that hearing to its customers. The notice must be consistent with the order setting the hearing and must be approved by the staff and the public counsel before it is mailed. When the utility mails the notice to its customers, it shall also send a copy to the staff and the staff shall file a copy in the case file.

(20) If the public counsel files a request for an evidentiary hearing, the request shall include a specified list of issues that the public counsel believes should be the subject of the hearing. The utility's pending tariff revisions shall then be suspended, and the utility's case shall be resolved through contested case procedures conducted in the time remaining in the rate case process, consistent with the requirements of section (24), the requirements of due process, and fairness to the participants in the matter and the utility's ratepayers.

(21) If at any time after a case is opened it becomes clear to the utility or the staff that agreements cannot be reached on even a portion of the issues related to the utility's request, even through the use of mediation or arbitration, either may file a motion asking that the utility's request be resolved through contested case procedures conducted in the time remaining in the rate case process, consistent with the requirements of section (24), the requirements of due process, and fairness to the participants in the matter and the utility's ratepayers.

(22) If the commission approves tariff revisions resulting from a small utility rate case, the utility shall mail written notice of that approval, including a summary of the revised rates and charges and the impact of the revised rates on an average residential customer's bill, to each of its customers. The notice must be approved by the staff and the public counsel prior to being mailed and shall be mailed to the customers prior to or with the first billing issued under the revisions. When the utility mails the notice to its customers, it shall also send a copy to the staff and the staff shall file a copy in the case file.

(23) If at any time after a case is opened the utility and the staff agree that an increase in the utility's annual operating revenues is not necessary, or if the utility advises the staff that it no longer wishes to pursue an increase, the staff shall file a verified statement to that effect in the case file, whereupon the regulatory law judge shall issue a notice closing the case.

(24) The proposed full resolution of a small utility rate case must be finally presented to the commission no later than nine (9) months after the case is opened, regardless of how it is presented, and the commission's decision and order regarding the case shall be issued and effective no later than eleven (11) months after the case was opened.

(25) The commission shall set just and reasonable rates, which may result in a revenue increase more or less than the increase originally sought by the utility, or which may result in a revenue decrease. In doing so, the commission may approve, reject or alter a disposition agreement, or an arbitration opinion and any related partial disposition agreement.