

Robin Carnahan
Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

RECEIVED

AUG 01 2013

SECRETARY OF STATE
ADMINISTRATIVE RULES

FILED
August 13, 2013
Data Center
Missouri Public
Service Commission

Rule Number 4 CSR 240-13.030

COPY

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

Name of person to call with questions about this rule:

Content Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

Email address morris.woodruff@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

☐ 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

AUG 01 2013
RECEIVED

JCAR Stamp

JOINT COMMISSION
AUG 1 2013
ADMINISTRATIVE RULES



Commissioners

ROBERT S. KENNEY
Chairman

TERRY M. JARRETT

STEPHEN M. STOLL

WILLIAM P. KENNEY

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>

JOSHUA HARDEN
General Counsel

MORRIS WOODRUFF
Secretary

WESS A. HENDERSON
Director of Administration
and Regulatory Policy

CHERLYN D. VOSS
Director of Regulatory Review

KEVIN A. THOMPSON
Chief Staff Counsel

August 1, 2013

Jason Kander
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-13.030 Deposits and Guarantees of Payment

Dear Secretary Kander,

CERTIFICATION OF ADMINISTRATIVE RULE

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

The Public Service Commission has determined and hereby certifies that this proposed rulemaking 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 2000, that the proposed rulemaking does not constitute a taking of real property under relevant state and federal law, and that the proposed rulemaking conforms to the requirements of 1.310, RSMo Supp. 2012, regarding user fees.

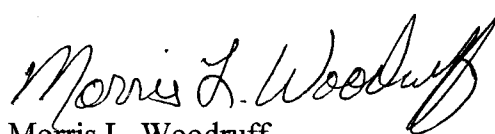
The Public Service Commission has determined and hereby also certifies that this proposed rulemaking complies with the small business requirements of 1.310, RSMo Supp. 2012, in that it does not have an adverse impact on small businesses consisting of fewer than fifty full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with 1.310, RSMo Supp 2012, 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: sections 386.250 and 393.140, RSMo 2000

Woodruff
August 1, 2013
Certification of Administrative Rule

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

Morris L. 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, reading "Morris L. Woodruff". The signature is written in a cursive style with a large, stylized "M" and "W".

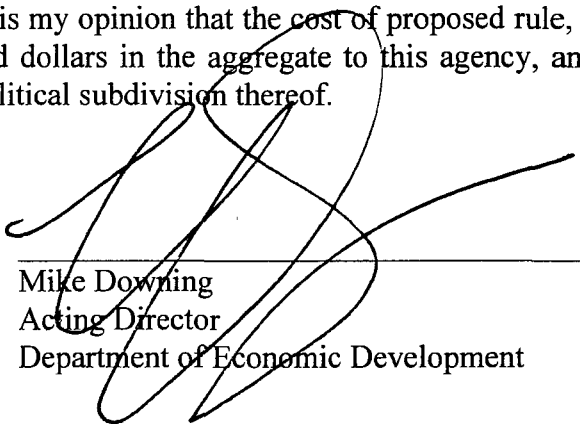
Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

**AFFIDAVIT
PUBLIC COST**

STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Mike Downing, Acting 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 240-13.030, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

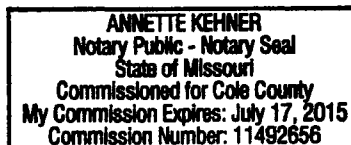


Mike Downing
Acting Director
Department of Economic Development

Subscribed and sworn to before me this 15th day of July, 2013, I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on 17 July 2015.



Notary Public



RECEIVED

AUG 01 2013

SECRETARY OF STATE
ADMINISTRATIVE RULES

Title 4--DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240--Public Service
Commission

Chapter 13--Service and Billing Practices for Residential
Customers of Electric, Gas, Sewer and Water Utilities

Proposed Amendment

4 CSR 240-13.030 Deposits and Guarantees of Payment The Commission is amending title of the chapter, sections (1), (1)(A), (1)(B), (1)(C), (1)(C)3, (2), (2)(A), (2)(B), (2)(C), (4)(A), (4)(B), (4)(F), (4)(F)4, (4)(G), (4)(I), (6), and the Authority section; and adding section (7).

PURPOSE: This rule is amended to update the rule to incorporate current technology and to clarify and eliminate inconsistencies in order to improve the operation of the rule.

PURPOSE: This rule establishes reasonable and uniform standards regarding deposits and guarantees required by utilities.

(1) A utility may require a deposit or other guarantee as a condition of new residential service if[-]:

(A) The *[customer]***applicant** has *[outstanding with a utility providing the same type of service,]*an unpaid bill, which accrued within the last five (5) years and, at the time of the request for service, remains unpaid and not in dispute **with a utility for the provision of the same type of service;**

(B) The *[customer]***applicant** has, in an unauthorized manner, **within the last five (5) years prior to applying for service,** interfered with or diverted the service of a utility *[providing]***in the provision of the same type of service** *[situated on or about or delivered to the customer s premises within the last five (5) years];* or

(C) The *[customer]***applicant** is unable to establish an acceptable credit rating under standards contained in *[tariffs filed with and approved by the]* **the utility's commission-approved tariffs. [The customer]If the applicant has insufficient credit history to determine a credit score, then the applicant** shall be deemed *[prima facie]*to have established an acceptable credit rating if the customer meets any of the following criteria:

1. Owns or is purchasing a home;
2. Is and has been regularly employed on a full-time basis for at least one (1) year;
3. Has a*[n adequate]* regular source of income; or
4. Can provide adequate credit references from a commercial credit source.

(2) A utility may require a deposit or guarantee as a condition of continu*[ed]***ing or re-establishing** residential service if[-]:

(A) The service of the customer has been discontinued by the utility for nonpayment of a delinquent account not in dispute; **or**

(B) *[In an unauthorized manner, t]*The customer **has** interfered with, *[or]* diverted *[the service of the]***or, in an unauthorized manner, used** utility *[situated on or about or]***service** delivered to the customer *[]*'s premises; or

(C) The customer has failed to pay an undisputed bill on or before the delinquent date for five (5) billing periods out of twelve (12) consecutive monthly billing periods, or two (2) quarters out of four (4) consecutive quarters. Prior to requiring a customer to post a deposit under this subsection, the utility shall send the customer a written notice explaining the utility *[]*'s right to require a deposit or include such explanation with each written discontinuance notice.

Notwithstanding the foregoing; that such customer has consistently made a payment for

COPY

ADMINISTRATIVE RULES
AUG 1 2013

each month during the twelve consecutive months, provided that each payment is made by the delinquent date; and each payment made is at least \$75 or 25% of the total outstanding balance, provided that the total outstanding balance is \$300 or less. This provision shall not apply to any customer whose total outstanding balance exceeds \$300 or to any customer making payments under a payment plan previously arranged with the utility.

(4) A deposit shall be subject to the following terms:

(A) It shall not exceed two (2) times the highest bill **or four times the average bill, whichever is stated in the utility's tariff** for utility charges actually incurred or estimated to be incurred by the customer during the most proximate twelve (12)-month period at the service location or, in the case of a new customer, who is assessed a deposit under subsection (1)(C) of this rule, one-sixth (1/6) of the estimated annual bill for monthly billed customers ~~[and]~~ **or** one-third (1/3) of the estimated annual bill for quarterly billed customers for utility charges at the requested service location;

(B) It shall bear interest at a rate specified in ~~[utility tariffs, approved by]~~ **the utility's commission-approved tariffs**, which shall be credited annually ~~[upon]~~ **to** the account of the customer or paid upon the return of the deposit **to the customer**, whichever occurs first. Interest shall not accrue on any deposit after the date on which a reasonable effort has been made to return it to the customer. ~~[Records]~~ **The utility** shall ~~[be kept]~~ **keep records** of efforts to return a deposit. This rule shall not preclude a utility from crediting interest ~~[upon]~~ **to** each service account during one (1) billing cycle annually;

(F) Each customer posting a security deposit shall receive, in writing, at the time of tender of deposit or with the first bill a receipt as evidence of deposit, unless the utility shows the existence or nonexistence of a deposit on the customer's bill, in which event the receipt shall not be required unless requested by the customer. The receipt shall contain the following minimum information:

1. Name of customer;
2. Date of payment;
3. Amount of payment;
4. Identifiable name, signature and title of the utility employee **who receiv[ing]ed the** payment; and
5. Statement of the terms and conditions governing the payment, retention and return of deposits;

(G) A utility shall ~~[provide means where]~~ **not deprive a [person entitled to a return] customer** of a deposit ~~[is not deprived of]~~ **return within five years following the date that the customer is due for a [the] deposit [refund]** **return**, even though ~~[s/he]~~ **the customer** may be unable to produce the original receipt ~~[for the deposit]~~; provided, ~~[s/he]~~ **that the customer** can produce adequate identification ~~[to ensure that s/he is the customer entitled to refund of the deposit]~~;

(I) A utility shall ~~[provide means where a]~~ **permit an applicant or** customer required to make a deposit ~~[may]~~ **to** pay the deposit in installments unless the utility can show:

1. **applicant has in an unauthorized manner, interfered with, or diverted the same type of service within the last five (5) years; or**
2. **if a customer has in an unauthorized manner interfered with, diverted or used the service of the utility situated on or about or delivered to the customer's premises; or**
3. **a likelihood that the customer does not intend to pay for the service.**

(6) A guarantor shall be released upon satisfactory payment of all undisputed utility charges during the last twelve (12) billing months. Payment of a charge is satisfactory if received prior to the date upon which the charge becomes delinquent, provided it is not in dispute. Payment of a

disputed bill shall be satisfactory if made within ten (10) days of resolution or withdrawal of the dispute.

(7) A sewer utility shall not require a deposit for flat rate billing to a customer for residential service that is rendered in advance of service being provided.

AUTHORITY: sections 386.250(6)[, *RSMo Supp. 1991*] and 393.140(11), *RSMo [1986]2000*, as **currently supplemented**. * Original rule filed Dec. 19, 1975, effective Dec. 30, 1975. Amended: Filed Oct. 14, 1977, effective Jan. 13, 1978. Amended: Filed June 10, 1992, effective Feb. 26, 1993. Rescinded and readopted: Filed Sept. 22, 1993, effective July 10, 1994.

*Original authority: 386.250(6), *RSMo* 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991 and 393.140(11), *RSMo* 1939, amended 1949, 1967.

PUBLIC COST: *This proposed rule will not cost state agencies or political subdivisions in excess of \$500.00 in total.*

PRIVATE COST: *This proposed rule will not cost private entities in excess of \$500.00 in total.*

NOTICE TO SUBMIT COMMENTS AND NOTICE OF PUBLIC HEARING: *Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices on or before October 7, 2013, and should include a reference to Commission Case No. AX-2013-0091. 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>. A public hearing regarding this proposed rule is scheduled for October 10, 2013, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed 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: September 28, 2012

Rule Number: 4 CSR 240-13.030

Name of Agency Preparing Statement: Missouri Public Service Commission

Name of Person Preparing Statement: Gay Fred

Phone Number: 573-751-3160

Email: gay.fred@psc.mo.gov

Name of Person Approving Statement: Gay Fred

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*).

During the MPSC's review and work on the proposed rule modifications, the MPSC solicited the involvement of small water and sewer utility businesses to participate in the working group to capture possible differences in compliance and standards. It appears there are no significant differences in compliance, reporting or any other mitigating techniques that would impact small businesses. In addition, all small regulated water and sewer companies today have filed and approved tariffs that have similar language to that of the proposed rule.

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

During the MPSC's review and work on the proposed rule modifications over the last seven years, the MPSC solicited the involvement of electric, gas, small water and sewer utility businesses, to participate in the working group meetings to develop the proposed rule.

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.

The proposed rule will have no monetary impact on the MPSC or any other state agency.

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

Small sewer utilities who currently do not fall under the proposed rule regarding residential billing and service standards of the MPSC will be required to comply with the proposed rule, however, currently these small sewer utilities have filed and approved tariffs that generally incorporate the same procedures and practices, it does not appear they will be adversely affected by this proposed rule.

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

There should be minimal if any direct and indirect costs associated with compliance. All small water and sewer utilities currently have filed and approved tariffs that have similar language to that found in the proposed rule.

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

Regulated electric, gas, sewer and water 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.