

Robin Carnahan

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

Administrative Rules Stamp

Rule Number 4 CSR 240-13.025

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:

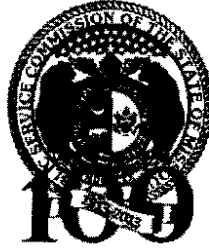
Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON

DEC 04 2013

ADMINISTRATIVE RULES



Commissioners
ROBERT S. KENNEY
Chairman
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

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

Re: 4 CSR 240-13.025 Billing Adjustments

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.

Statutory Authority: sections 386.250 and 393.140, RSMo 2000

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

Morris L. Woodruff
Chief Regulatory Law Judge

**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**

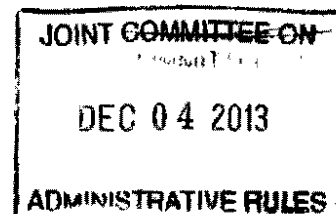
ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.250(6) RSMo 2000, and section 393.140(11) RSMo 2000, the commission amends a rule as follows:

4 CSR 240-13.025 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on September 3, 2013 (38 MoReg 1366). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended October 7, 2013, and the commission held a public hearing on the proposed amendment on October 10, 2013. The commission received timely written comments from Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company; Laclede Gas Company, Ameren Missouri, and The Empire District Electric Company (collectively the Missouri Utilities); the Office of the Public Counsel; Jacqueline Hutchinson, Vice President of Operations for People's Community Action Corporation in St. Louis Missouri; AARP, the Consumers Council of Missouri, and Legal Services of Eastern Missouri, Inc. (collectively the AARP group); Missouri-American Water Company; and the Staff of the Missouri Public Service Commission. In addition, the following people offered comments at the hearing: Rick Zucker, representing Laclede Gas Company and Missouri Gas Energy; Jim Fischer, representing Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company; Allison Erickson on behalf of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company; Russ Mitten, representing The Empire District Electric Company; Sarah Giboney, representing Ameren Missouri; Kathy Hart on behalf of Ameren Missouri; Tim Luft, on behalf of Missouri-American Water Company; Marc Poston, representing the Office of the Public Counsel; John Coffman, representing AARP and Consumers Council of Missouri; Jacqueline Hutchinson on behalf of Community Action Corporation in St. Louis Missouri; Jackie Lingum, representing Legal Services of Eastern Missouri, Inc.; Akayla Jones, representing the Staff of the Missouri Public Service Commission; and Gay Fred



and Lisa Kremer on behalf of the Staff of the Missouri Public Service Commission.

The commission considered this particular rule in conjunction with eleven other rules within Chapter 13. Not all persons offering comments addressed this particular rule.

COMMENT: The commission's staff offered a written comment indicating that it continues to support the amendment as proposed.

RESPONSE: The commission thanks staff for its comment.

COMMENT: The AARP group proposes an amendment to subsection (1)(B), a subsection that the commission has not proposed to amend. That subsection currently allows a utility to bill for undercharges for up to twelve monthly billing periods. The AARP group proposes to reduce that period to six months, reasoning that a shorter look-back period would encourage the utility to avoid billing errors. Public Counsel proposes a similar shortening of the look-back period when the undercharge is attributed to the failure of a meter or an automatic meter reading device.

This proposal was not published in the Missouri Register so there has been no formal opportunity to comment. The utility representatives who commented at the hearing contend the current twelve month look-back period is appropriate.

RESPONSE: The twelve month look-back period for utility collection of undercharges is contrasted with the sixty month look-back period established in subsection (1)(B) for utility refunds to customers for overcharges. Seen in that light, the twelve month look-period for undercharges is a reasonable balancing of utility and consumer interests. The commission will not amend the subsection in the manner proposed.

COMMENT: The commission proposes to add a new subsection (1)(C) that allows a customer to repay an overcharge over a period at least twice as long as the period covered by the adjusted bill. So, if the undercharge was incurred over three months, the customer could repay the undercharge over six months. The AARP group would allow the customer to repay over twice the period covered by the adjusted bill or twelve months, whichever is longer.

The Missouri Utilities would go the other direction and allow the customer only the length of time in which the undercharge was incurred to repay the undercharge. In addition, the Missouri Utilities would require the customer to enter into a formal repayment agreement to use even that amount of time to repay the undercharge.

Public Counsel supports the double repayment period contained in the rule as published in the Missouri Register.

RESPONSE: The proposed subsection published in the Missouri Register is a reasonable balancing of utility and consumer interests. There is insufficient reason to allow a minimum of twelve months to repay an undercharge in all instances, even when the undercharge occurred in a single month. On the other hand, the utilities' proposal is unduly one-sided and fails to protect the consumer interest. The commission will not change the language published in the Missouri Register.

COMMENT: Public Counsel proposes to add a subsection to require utilities to demonstrate that they have complied with the estimated billing requirement of these rules before they can collect an undercharge adjustment from their customers. To that end, Public Counsel proposes the following:

No undercharge adjustment shall be made for usage that was previously estimated and where the utility has not complied with 4 CSR 240-13.020 subsections (1), (2), (3), and (4), and adequately documented and retained records of such compliance.

This proposal was not published in the Missouri Register, so there has been only a limited opportunity for interested stakeholders to respond to Public Counsel's proposal.

RESPONSE: The commission certainly expects the utilities to comply with all its rules, but Public Counsel's documentation and retention requirements could impose an undue burden on the utilities and ultimately the ratepayers. The commission will not include the provision proposed by Public Counsel in the rule.