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SEP 2 2 2003

MATT BLUNT
 Secretary of State
 Administrative Rules Division
 RULE TRANSMITTAL

SECRETARY OF STATE
 ADMINISTRATIVE RULES

A "SEPARATE" rule transmittal sheet must be used for EACH individual rulemaking.

A. Rule Number 4 CSR 240-3.440

Diskette File Name Small Steam Heating Utility Rule 4 CSR 240-3.440

Name of Person to call with questions about this rule:

Content Steven Dottheim **Phone** 573-751-7489 **FAX** 573-751-7489

Data Entry Susan L. Sundermeyer **Phone** 573-751-4335 **FAX** 573-751-9285

Email Address stevendottheim@psc.state.mo.us

Interagency Mailing Address Governor Office Building, 200 Madison St., 8th Floor, Jefferson City, MO

Statutory Authority 393.291 (HB208) RSMo Cum Supp 2003,
 386.250 and 393.140 RSMo 2000 **Current RSMo date** 2000
 RSMo;
 Cum Supp
 2003

Date Filed With the Joint Committee on Administrative Rules Exempt per Sections 536.024 and
 536.037 RSMo 2000 and Executive Order No. 97-97 (June 27, 1997)

B. CHECK, IF INCLUDED:

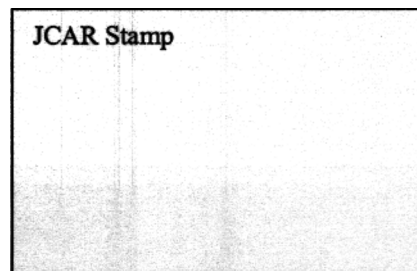
- | | |
|--|---|
| <input checked="" type="checkbox"/> This transmittal completed | <input type="checkbox"/> Incorporation by reference materials, if any |
| <input checked="" type="checkbox"/> Cover letter | <input type="checkbox"/> Authority with history of the rule |
| <input checked="" type="checkbox"/> Affidavit | <input type="checkbox"/> Public cost |
| <input type="checkbox"/> Forms, number of pages __ | <input type="checkbox"/> Private cost |
| <input type="checkbox"/> Fiscal notes | <input type="checkbox"/> Hearing and comment period |

C. RULEMAKING ACTION TO BE TAKEN

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

D. SPECIFIC INSTRUCTIONS: Please indicate any special instructions (e.g., publication date preference, identify material to be incorporated by reference, or forms included herein).

JCAR Stamp



E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-3.440

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. This is not a reprinting of your order, but an explanation of what sections, subsections, etc. have been changed since the original proposed rule was filed.

(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer text. DO NOT delete the header, however.)

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
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
STEVE GAW
BRYAN FORBIS
ROBERT M. CLAYTON III

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>

ROBERT J. QUINN, JR.
Executive Director
WESS A. HENDERSON
Director, Utility Operations
ROBERT SCHALLENBERG
Director, Utility Services
DONNA M. PRENGER
Director, Administration
DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

September 22, 2003

Mr. Matt Blunt
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, MO 65101

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

CERTIFICATION OF ADMINISTRATIVE RULE

Dear Secretary Blunt:

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 22nd day of September 2003.

The Missouri Public Service Commission has determined and hereby certifies that this proposed rule does not affect small business, or require an expenditure of money by, or a reduction in income for, a business entity which would cost more than five hundred dollars (\$500) in the aggregate. The Missouri 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 2000 and that this proposed rule does not constitute a taking of real property under relevant state and federal law.

Statutory Authority: Section 386.250 and 393.140 RSMo 2000, and Section 393.291 RSMo Cum Supp 2003 (HB 208).

If there are any questions regarding the content of the rule, please contact: Steven Dottheim, 200 Madison Street, Suite 800, P.O. Box 360, Jefferson City, MO 65101, (573) 751-7489, stevedottheim@psc.state.mo.us.

Sincerely yours,

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

DHR:SD/sls
Enclosures: Transmittal Form, Order of Rulemaking & 3.5" Diskette

AFFIDAVIT

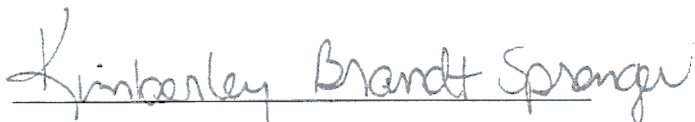
STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Joseph L. Driskill, Director of the Department 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.



Joseph L. Driskill
DIRECTOR
Department of Economic Development

Subscribed and sworn to before me this 10th day of ~~August~~ ^{September} 2003. I am
commissioned as a notary public within the County of Cole, State of Missouri,
and my commission expires on April 29, 2006.


NOTARY PUBLIC

KIMBERLEY BRANDT SPRENGER
NOTARY PUBLIC STATE OF MISSOURI
COLE COUNTY
MY COMMISSION EXP. APR. 29, 2006

SEP 22 2003

PROPOSED RULE

SECRETARY OF STATE
ADMINISTRATIVE RULES

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

COPY

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

(1) Notwithstanding any other rule to the contrary, a small steam heating utility serving one hundred (100) or fewer customers (small steam heating utility) may request an increase in its annual operating revenues through the procedures set forth in this rule by filing a letter requesting the change. The request shall not be accompanied by any tariff sheets. The small steam heating utility rate case shall be conducted as follows:

(A) The original letter requesting the change shall be filed with the secretary of the commission and one (1) copy shall be furnished to the public counsel. The letter shall state:

1. the amount of the additional revenue requested,
2. the reason(s) for the proposed change,
3. a statement that all commission annual assessments have been paid in full or are being paid under an installment plan, and
4. a statement that the small steam heating utility's current annual report is on file with the commission.

(B) The small steam heating utility, in writing, shall notify each customer and each provider of gas or electric service in the area of the request for additional revenue and the effect on the typical commercial and industrial customer's bill. The notice shall indicate that customers' responses may be sent to the Energy Department Manager of the commission or the public counsel within thirty (30) days of the date shown on the notice. A draft copy of the notice shall be sent to the Energy Department Manager of the commission for verification of the accuracy of the notice before being sent to the small steam heating utility's customers. A copy of the final notice shall then be sent to the Energy Department Manager of the commission and the public counsel. The commission staff and the public counsel shall exchange copies of customer responses upon their receipt.

(C) Any customer, gas or electric service provider responding within thirty days of the date of the notice shall be entitled to copies of all filings, with the possible exception of any information deemed to be confidential or proprietary, subsequently made in the case and may participate in any conferences or hearings therein.

(D) Upon receipt of the steam heating utility's request, the commission staff shall schedule an investigation of the steam heating utility's operations and an audit of its financial records. The steam heating utility, in compliance with commission rule 4 CSR 240-2.090 Discovery and Prehearing, shall make available the following:

1. All financial records,
2. All billing and sales data, and
3. All customer information.

(E) When the investigation and audit are complete, the commission staff shall notify the steam heating utility and public counsel whether the requested additional revenue is recommended in whole or in part, of the rate design proposal for the increase, and of any recommended operational changes.

(F) If public counsel wishes to conduct an investigation and audit of the steam heating utility, it must do so within the same time period as staff's investigation and audit;

(G) The commission staff, within twenty-one (21) days from the completion of its investigation, shall arrange a conference with the steam heating utility and shall notify the public counsel of the conference prior to the conference, in order to provide the public counsel an opportunity to participate;

(H) If the conference between the commission staff, the steam heating utility and the public counsel results in an agreement concerning additional revenue requirements and any other matters pertaining to the steam heating utility's operations, including responses to customer concerns, the agreement among the commission staff, the steam heating utility and the public counsel shall be reduced to writing. The steam heating utility may then file tariff sheet(s) with an effective date which is not fewer than thirty (30) days after the tariff's issue date and no additional customer notice or local public hearing shall be required, unless otherwise ordered by the commission. The steam heating utility shall file a copy of the agreement with its tariff;

(I) If the conference results in an agreement between the commission staff and the steam heating utility only, the steam heating utility at this time shall file the necessary tariff sheet(s) with the commission in accordance with the agreement. The tariff sheet(s) shall contain an effective date of not fewer than forty-five (45) days from the issue date. The steam heating utility shall notify customers in writing of the proposed rates resulting from the agreement. The notice shall indicate that customers' responses may be sent to the Energy Department Manager of the commission or the public counsel within twenty (20) days of the date shown on the notice. A copy of the notice shall be sent to the secretary of the commission and the public counsel. The commission staff and the public counsel shall exchange copies of the customer responses upon their receipt. The public counsel shall file a pleading indicating its agreement or disagreement with the tariff sheet(s) within twenty-five (25) days of the date the tariff sheet(s) is filed, unless a public hearing is requested;

(J) A request for a local public hearing may be filed after the tariff sheet(s) is filed by the steam heating utility. The request shall be filed within twenty (20) days of the filing of the tariff sheet(s) by the steam heating utility. Public counsel shall file a pleading indicating agreement or disagreement with the tariff sheet(s) within seven (7) days after the local public hearing;

(K) An agreement must be reached and tariff sheet(s) filed based upon the agreement within one hundred fifty (150) days from the date the letter initiating the case is filed. This time period may be extended with the consent of the steam heating utility. Written consent for an extension shall be filed; and

(L) If no agreement can be reached between the commission staff and the steam heating utility, the steam heating utility may initiate a standard rate case.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000, and section 393.291, RSMo Cum Supp 2003 (HB208), effective August 28, 2003.

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

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

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, Dale Hardy Roberts, 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 December 4, 2003, and should include a reference to Commission Case No. HX-2004-0082. 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.state.mo.us/efis.asp>>. A public hearing regarding this proposed rule is scheduled for December 10, 2003, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, 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.