

# Robin Carnahan

Secretary of State  
Administrative Rules Division

## RULE TRANSMITTAL

Administrative Rules Stamp

Rule Number 4 CSR 240-13.015

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, 9<sup>th</sup> 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:

Section (1)

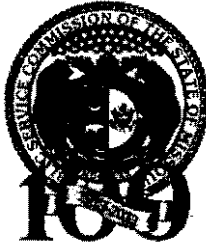
Small Business Regulatory  
Fairness Board (DED) Stamp

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 240-13.015 Definitions

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](mailto:morris.woodruff@psc.mo.gov)

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive, flowing style.

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**

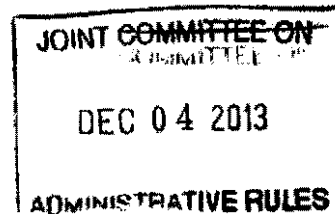
**ORDER OF RULEMAKING**

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 240-13.015 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 1364). Those sections with changes are 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 and the Office of the Public Counsel express concern about the proposed change to the definition of "applicant". The amendment would distinguish applicant, as a person who has applied to receive residential service, from a "customer". Under the definition, an "applicant" becomes a "customer" upon initiation of service.

The AARP group warns that the use of "applicant" and "customer" throughout the Chapter 13 rules is not always consistent with that dichotomy and advises the Commission to carefully examine the entire chapter to be sure there are no unintended consequences of changing this definition. More particularly, the AARP group and Public Counsel are concerned that an existing customer might be relabeled as an applicant, and thereby lose some protections under the rule if their service is disconnected for a period. To remedy that concern, Public Counsel proposes that the rule clarify that a disconnected customer remains a customer rather than an applicant for one year after the disconnection.

Missouri American Water Company also expresses concern about the last sentence of the definition and suggest that the commission add a definition of "initiation of service" to define the moment when an applicant becomes a customer.

**RESPONSE AND EXPLANATION OF CHANGE:** All of the comments raise valid concerns about the difference between an applicant and a customer. However, those concerns are beyond the scope of a simple definition of "applicant." The second sentence of that definition, which attempts to define the difference between "applicant" and "customer" and when that change takes place, is also beyond the scope of a definition. If that question is to be addressed it needs to be addressed as a substantive part of the regulations, not jammed into a definition. The Commission will remove the second sentence of the definition of "applicant." That will also eliminate any need to define "initiation of service".

**COMMENT:** Rick Zucker, attorney for Laclede Gas Company, pointed out a problem with the definition of "bill". Mr. Zucker pointed out that a comma should be inserted after the words "electronic demand" within the definition to make the sentence grammatically correct.

**RESPONSE AND EXPLANATION OF CHANGE:** Mr. Zucker is correct and the Commission will add the comma to the definition.

**COMMENT:** Public Counsel is concerned that the new definition of "corrected bill" is vague and overly broad and might authorize a utility to re-bill a customer without adjusting the date payment is due. Public Counsel contends the commission's standard should be to ensure that customers shall receive a correct bill based on actual usage each billing period with only limited exception for circumstances beyond the utility's reasonable control. Public Counsel does not offer a specific alternative definition of "corrected bill".

**RESPONSE:** The commission certainly agrees with the standard described by Public Counsel. However, the simple definition of "corrected bill" does not override any consumer protections embodied elsewhere in the Chapter 13 regulations. There is no need to change the definition.

**COMMENT:** Public Counsel proposes that the words "the validity of" should be removed from the new definition of "in dispute." Public Counsel is concerned that a dispute may involve an invalid charge appearing on an otherwise valid bill. Rick Zucker, attorney for Laclede Gas Company contends "the validity of" should remain in the rule to clearly differentiate a dispute from an inquiry

**RESPONSE AND EXPLANATION OF CHANGE:** The commission agrees with the change proposed by Public Counsel. The phrase "the validity of" could inappropriately narrow the intended scope of the definition. Even with the change, the definition of "in dispute" is sufficiently different from "inquiry." The commission will remove the "the validity of" phrase from the definition.

**COMMENT:** Public Counsel is concerned that the new definition of "inquiry" would too narrowly limit the scope of what constitutes an inquiry. Public Counsel suggests that inquiry should be more broadly defined as "a question or request for information related to utility charges, services, practices or procedures."

The AARP group also expresses concern that this definition will shrink consumer rights and suggests that a second sentence be added to the definition to indicate "An inquiry that expresses a concern or disagreement with a utility charge or utility service shall also be considered a complaint under these rules."

**RESPONSE AND EXPLANATION OF CHANGE:** The AARP group's concerns are unfounded. The definition of "inquiry" is intended to differentiate a customer inquiry from a customer complaint, recognizing that not all customer questions and requests for information are in fact complaints. The AARP groups' proposed

language would eliminate the distinction the new definition is design to recognize. The commission will not make the change proposed by the AARP group.

The change proposed by Public Counsel is well taken. In this circumstance a broader definition of inquiry is appropriate. The commission will adopt the revision proposed by Public Counsel.

**COMMENT:** The AARP group, Public Counsel, and the Missouri Utility Group all express concern about the new definition of "payment." The AARP group and Public Counsel want to ensure that all customers have the option to pay by cash or draft and that electronic payment is not made mandatory. The Missouri Utility Group is concerned that an insufficient funds check that is dishonored should not meet the definition of payment. To that end, that group recommends that the phrase "draft of good and sufficient funds" be added to the definition.

**RESPONSE AND EXPLANATION OF CHANGE:** The commission is mindful of the concern expressed by the AARP group and Public Counsel. The commission agrees that electronic payment should remain an option only and this definition does not change that position. The Missouri Utility Group's concern is more well-founded. No one believes that simply sending the utility a check that is dishonored should meet the definition of "payment." The commission will add the phrase "draft of good and sufficient funds" to the definition.

**COMMENT:** The AARP group and Public Counsel advise the commission to delete the new definition of "payment agreement." They are concerned that the definition is not necessary and is not a proper definition in that it attempts to limit such agreements to a twelve-month duration unless the customer and utility agree to a longer period. Public Counsel also suggests that the substantive limitations on payment agreement could better be placed in 4 CSR 240-13.060, the regulation dealing with payment agreements.

**RESPONSE AND EXPLANATION OF CHANGE:** Public Counsel is correct. The definition of "payment agreement" should not attempt to impose substantive limitations on such agreements. The commission will cut the phrase that imposes those substantive limitations from the definition and will move it to 4 CSR 240-13.060.

**COMMENT:** Public Counsel is concerned about the proposed amendment to the definition of "rendition of a bill." The proposed amendment is designed to recognize and allow for the electronic delivery of the bill to the customer. Public Counsel expresses concern that the phrases "posted electronically" and "otherwise sent to the customer" are potentially vague and subject to abuse.

**RESPONSE:** Public Counsel's concerns about the phrases "posted electronically" and "otherwise sent to the customer" are misplaced as neither

phrase appears in the version of the proposed amendment that was published in the Missouri Register. The proposed amendment that appears in the Register does not have the problems described by Public Counsel and does not need to be changed.

**COMMENT:** Public Counsel claims that the proposed amendment of the definition of tariff is unnecessary and potentially misleading because it would exclude instances where the commission may prescribe tariff changes that were not filed by the utility.

**RESPONSE:** Public Counsel's criticism of the proposed definition of tariff is not persuasive. Contrary to that criticism, while the Commission can order a utility to file a certain tariff, only a utility may actually file the tariff. Thus, the definition covers all means by which a tariff may become effective and does not need to be changed.

#### **4 CSR 240-13.015 Definitions**

(1) The following definitions shall apply to this chapter:

(A) Applicant means an individual(s) or other legal entity who has applied to receive residential service;

(B) Bill means a written demand, including, if agreed to by the customer and the utility, an electronic demand, for payment for service or equipment and the taxes, surcharges, and franchise fees;

(S) In dispute means to question and request examination of utility bills or services rendered;

(T) Inquiry means a question or request for information related to utility charges, services, practices or procedures;

(V) Payment means cash, draft of good and sufficient funds, or electronic transfer;

(W) Payment agreement means a payment plan entered into by a customer and a utility;