

John R. Ashcroft

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

COPY

Rule Number 4 CSR 240-20.105

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

Name of person to call with questions about this rule:

Content Nancy Dippell Phone 573-751-8518 FAX 573-526-6010

Email address Nancy.Dippell@psc.mo.gov

Data Entry Christine Koenigsfeld Phone 573-751-4256 FAX 573-526-6010

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Interagency mailing address Public Service Commission, 9th Floor Gov. Office Bldg, JC, Mo

TYPE OF RULEMAKING ACTION TO BE TAKEN

☐ Emergency Rulemaking ☐ Rule ☐ Amendment ☐ Rescission ☐ Termination

Effective Date for the Emergency _____

☐ Proposed Rulemaking ☐ Rule ☐ Amendment ☐ Rescission

☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☐ Request for Non-Substantive Change

☐ Statement of Actual Cost

☒ Order of Rulemaking ☐ Withdrawal ☒ Adopt ☐ Amendment ☐ Rescission

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:

Sections (1), (2), (8), (9), (13), (16), (18), (21), (22), (24), (28), and (29)

Small Business Regulatory
Fairness Board (DED) Stamp

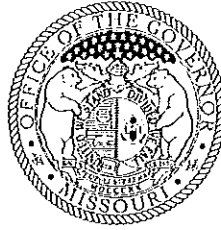
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JOINT COMMITTEE ON

MAR 13 2019

ADMINISTRATIVE RULES

STATE CAPITOL
201 W. CAPITOL AVENUE, ROOM 216
JEFFERSON CITY, MISSOURI 65101



(573) 751-3222
WWW.GOVERNOR.MO.GOV

Michael L. Parson

GOVERNOR
STATE OF MISSOURI

March 7, 2019

Mr. Ryan Silvey
Public Service Commission
200 Madison Street
PO Box 360
Jefferson City, MO 65102

RE: *Final Order of Rulemaking*

Dear Ryan:

This office has received your Final Order of Rulemaking for 4 CSR 240-20.105 Filing Requirements for Electric Utility Rate Schedules.

Executive Order 17-03 requires this office's approval before state agencies release proposed regulations for notice and comment, amend existing regulations, rescind regulations, or adopt new regulations. After our review of this rulemaking, we approve the rule's submission to the Joint Committee on Administrative Rules and the Secretary of State.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessie Eiler".

Jessie Eiler
Deputy Counsel



Commissioners
RYAN A. SILVEY
Chairman
WILLIAM P. KENNEY
DANIEL Y. HALL
SCOTT T. RUPP
MAIDA J. COLEMAN

Missouri Public Service Commission

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John Ashcroft
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-20.105 Filing Requirements for Electric Utility Rate Schedules

Dear Secretary Ashcroft,

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.

Statutory Authority: sections 386.250 and 393.140, RSMo 2016.

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

Nancy Dippell, Senior Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8518
Nancy.Dippell@psc.mo.gov

Ronald Priddy
Deputy Chief Regulatory Law Judge

Enclosures

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 20—Electric Utilities

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250 and 393.140, RSMo 2016, the commission adopts a rule as follows:

4 CSR 240-20.105 is adopted.

A notice of proposed rulemaking containing the proposed rule was published in the *Missouri Register* on December 17, 2018 (43 MoReg 3776-3779). Changes to the proposed rule are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended January 17, 2019, and the commission held a public hearing on the proposed rule on January 28, 2019. The commission received timely written comments in support of the rule from Travis J. Pringle, Legal Counsel, on behalf of the staff of the commission, Caleb Hall, Attorney, on behalf of the Office of the Public Counsel ("OPC"), and Paula N. Johnson, Senior Corporate Counsel, on behalf of Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri"). Mr. Hall and Ms. Johnson also suggested changes to some rule provisions. The commission received comments at the hearing in support of the rule from Jamie Myers, Commission Staff Deputy Director, and Robin Kliethermes, Rate and Tariff Examination Manager, on behalf of the staff of the commission ("staff"), Mr. Hall on behalf of OPC, Ms. Johnson on behalf of Ameren Missouri, and Jim Fischer, Fischer & Dority, PC, on behalf of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company (collectively referred to as "KCP&L/GMO").

COMMENT #1: Staff gave general comments supporting the rule and the transfer of the provisions of 4 CSR 240-3.145 to this rule. Staff stated that this rulemaking was undertaken in response to Executive Order 17-03 and is being proposed in order to consolidate, streamline, and improve the user-friendliness of the commission's regulations. Specifically, with regard to this new rule, staff stated that there were several references to the 1913 statute and to providing 14 paper copies of filed documents in 4 CSR 240-3.145 that the commission removed to clean up and simplify this rule.

RESPONSE: The commission appreciates its staff's dedication to improving the regulatory process at the commission and in the state of Missouri. No change was made as a result of these comments.

COMMENT #2: OPC commented that the word "generating" in section (1) should be

changed to "generation." Staff of the commission agreed with OPC that this change should be made.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that the verb "generating" should be changed to the noun "generation" in section (1). Therefore, the commission amends section (1) by changing that word and adds a comma after the word "furnishing" in that list.

COMMENT # 3: Ameren Missouri filed written comments and commented at the hearing in support of most of this rule. Ameren Missouri stated that the proposed rule updates the regulations by removing references dating back to 1913 and consolidates the provisions of 4 CSR 240-3.145 into this rule which makes the commission's regulations as a whole more logically organized. KCP&L/GMO agreed with these comments.

RESPONSE: The commission thanks Ameren Missouri and KCP&L/GMO for their participation in this rulemaking process. No change was made as a result of this comment.

COMMENT #4: Ameren Missouri commented that sections (2) and (21) and subsection (8)(G) should be amended to remove the requirements to keep and make accessible to the general public, a paper copy of its rate schedules in each of its offices. Ameren Missouri stated that for security and practical reasons electrical corporations should no longer be required to do this and that customers now have access to the rate schedules via the internet. Ameren Missouri further commented that a customer would not receive any trained help with understanding the rates and schedules if that person was at an office building or pay station because customer service representatives would only be available by telephone. Ms. Johnson stated that she had asked other Ameren Missouri employees and no one could remember an occasion when a customer had asked to see the rate schedules in person. Ameren Missouri proposed new language that would require the electrical corporations to only publish their rate schedules on their websites and to provide customer service assistance by telephone. KCP&L/GMO agreed with and supported Ameren Missouri's comments.

Staff disagreed with this proposed change stating that the requirement was not a burden for the electrical corporations and there could be a customer without internet access who would want to access the paper tariff. OPC agreed with staff that the requirement should stay in the rule.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that, although this is not a large burden on the electrical corporations, they should not be required to maintain a paper copy of their rate schedules at every pay station and branch office. However, the commission finds that it is reasonable to require electrical corporations to maintain a paper copy and make it accessible to customers who request it at the

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corporation's main or principal Missouri office. The commission will also adopt Ameren Missouri's suggestion that the electrical corporations keep their rate schedules on their websites and provide customer service representatives by telephone. Therefore, the commission will amend section (2) by rewriting it and delete subsections (2)(A), (2)(B), and (2)(C). The Commission makes no changes to subsection (8)(G) or section (21) as the result of this comment.

COMMENT #5: Ameren Missouri commented that section (5) and subsection (9)(C) should be amended to update the classification of service types. Ameren Missouri stated that customers will typically look for their service rates under the designations of "residential" and "non-residential." Ameren Missouri further stated that the "non-residential" category should have further categories such as small or large general service, small or large primary service, and street lighting either company-owned or customer-owned. Ameren Missouri further commented that the requirement that battery charging automatically be designated as commercial was outdated. Because of progress in battery and battery charging technologies, it may now be applicable to residential customers. Ameren Missouri provided proposed language. KCP&L/GMO agreed with Ameren Missouri's comments.

At the hearing, Staff agreed with Ameren Missouri that the categories should be updated, but proposed that the categories in section (5) should be made more general so that they would be applicable to all Missouri electrical corporations and not just the specific categories that Ameren Missouri has in its rate schedules. Ameren Missouri indicated agreement with staff's proposed broad rate schedule categories. Staff also agreed with Ameren Missouri's proposed change to subsection (9)(C).

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the service category changes proposed by staff. Therefore, the commission amends section (5) and subsection (9)(C) and deletes subsections (5)(A), (5)(B), and (5)(C).

COMMENT #6: Ameren Missouri suggested deleting the requirement to have a title page and references to the title page on the rate schedules found in sections (7), (8), and (9). Ameren Missouri made these suggestions because it believes title pages are no longer necessary when viewing the rate schedule electronically. Ameren Missouri also suggested changes to subsections (8)(D), (8)(E), (8)(F), and (8)(G) because the specific terms used there were outdated and unnecessary. Additionally, because Ameren Missouri believes that no electrical corporation will file a paper copy of its rate schedules, the term "loose leaf" can be removed from sections (8), (13), and (16) and subsection (8)(G). Finally, Ameren Missouri suggested that the words "printed" and "reissued be changed to "published" to remove the paper connotation. KCP&L/GMO agreed with Ameren Missouri's comments.

Staff stated that it believed there is still value to having a title page, especially when

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staff provides a paper copy to someone. Staff also believes that the title page requirements and the tariff formatting requirements in subsections (8)(D), (8)(E), and (8)(F) should stay the same so that the regulations for rate schedules will be consistent across industries and companies. Staff agrees, however, that the term "loose-leaf" should be removed. Staff disagreed with removing the "printed" and "reissued" and suggested adding "and/or published" to those phrases. Ameren Missouri agreed with staff's suggestion.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff that the title page and other formatting requirements for rate schedules should not be deleted in order to maintain consistency across industries and companies within industries. The commission also agrees that the term "loose leaf" should be deleted from sections (8), (13) and (16) and subsection (8)(G). The commission will also adopt "published" in place of "printed" and "reissued" in section (13) in order to update the language for electronic filing and to remove the suggestion that a rate schedule amendment must be physically printed. Finally, the commission will delete a sentence in section (16) regarding how paper copies shall be filed, because it is no longer necessary when receiving a paper copy. The commission amends sections (13) and (16) and subsection (8)(G).

COMMENT # 7: Ameren Missouri commented that the reference to section (16) in section (18) was incorrect and should be a reference to section (15). Staff and KCP&L/GMO agreed.

RESPONSE AND EXPLANATION OF CHANGE: The commission will correct the section reference in section (18).

COMMENT # 8: Ameren Missouri commented that the word "less" should be changed to "fewer." In section (21). Staff agreed.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with the correction and will change "less" to "fewer" in section (21).

COMMENT #9: OPC commented that section (22) refers to municipalities being responsible for filing schedules of rates and supplements. OPC stated this language is a reprint of part of 4 CSR 240-3.145 that is being incorporated in this new rule. However, no other part of the rule refers to municipalities. Therefore, he suggests that this language be removed or that the commission add municipalities to the remainder of the rule if that was what was intended. Staff of the commission agreed with OPC that this change should be made.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with OPC that

the reference to municipalities is in error and should be removed. Therefore, the commission will delete that reference from section (22).

COMMENT #10: Ameren Missouri commented that all electrical corporations use the commission's Electronic Filing and Information System (EFIS) rather than paper filings and, therefore, section (24) can be updated to remove references to postage and items being held by the post office. Ameren Missouri also suggested adding language regarding when a filing is not received because of a server or other electronic issue attributable to the commission or EFIS. KCP&L/GMO agreed with Ameren Missouri's comments.

Staff disagreed that Ameren Missouri's changes should be made. Staff stated that there is value to having the rule language and the methods of filing rate schedules consistent among the various industries that the commission regulates. Staff commented that even though electrical corporations usually file electronically, it is possible that the commission will receive filings via the U.S. Postal Service. Staff also commented that the proposed language regarding electronic errors was not necessary. Staff agreed with Ameren Missouri that some clean-up of the language was needed in order to remove a reference to "telegraphic notices."

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff that the rule should be consistent with the methods of filing for other industries. Additionally, because these rules do not require electronic filing, a provision for receiving filings through the U.S. Postal Service should remain in the rule. Further, the commission is unaware of problems due to the absence of a rule stating when filings are deemed received if there is an electronic error attributable to the commission when a filing is made. Absent issues being present, the commission will not adopt Ameren Missouri's proposed additions to section (24). The commission will, however, update section (24) by deleting the sentence referring to "telegraphic notices."

COMMENT #11: Ameren Missouri commented that section (28) should be updated to allow for electronic filing of rate schedules and section (29) should be amended to remove the phrase "in duplicate if receipt is desired." Staff and KCP&L/GMO agreed with Ameren Missouri's proposed change.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds that section (28) should be updated to allow electronic filing of rate schedules. However, because paper copies will still be accepted, the commission will not delete the requirement to provide a duplicate if a paper receipt is desired. The commission will clarify that phrase to make it applicable only to paper receipts as electronic copies will be available in EFIS. Therefore, the commission rewrites sections (28) and (29).

4 CSR 240-20.105 Filing Requirements for Electric Utility Rate Schedules

(1) Every electrical corporation, as defined in section 386.020, RSMo, engaged in the manufacture, generation, furnishing, or transmission of electricity for light, heat, or power within Missouri is directed to have on file with this commission a schedule of all rates, rentals, and charges of whatever nature made by the electrical corporation for each kind of service it renders which are in force, together with proper supplements covering all changes in rate schedules authorized by this commission, if any.

(2) Every electrical corporation is directed to keep a paper copy of its rate schedules approved by this commission in its main or principal Missouri operating office and to make those rate schedules readily accessible to the public upon demand during regularly scheduled business hours of that office. Every electrical corporation shall also publish a currently effective rate schedule on its website and make the electronic schedule readily available to the public. The electrical corporation shall provide access in person or by telephone during regular business hours to customer service representatives who can aide customers in determining accurately the rate or charge applicable to any particular kind of electrical service.

(8) The title page or sheet of every schedule of rates shall show—

(G) On the upper left-hand corner of a schedule of fewer than three (3) pages the words, "No supplement to this tariff will be issued except for the purpose of canceling this tariff." A schedule of three (3) or more pages shall include the words, "Only one supplement to this schedule will be in effect at any one time"; and

(9) The schedule shall contain in the order named—

(C) Classification of Service. Under this heading the kind of service separately grouped for Residential and Non-Residential will be set forth in the order named together with a detailed statement of the rate(s) in connection with same. A definite separation must be made between prompt payment discount and quantity discount and stating the manner in which they are computed clearly. If guarantees of any nature are required or a minimum charge made, the principles upon which they are based must be stated. In this case give the company's charges or deposits for meters. If penalties for delayed payments are exacted, the same must be stated. State whether current is estimated or metered and if so, how. State the company's practice in regard to lamp renewals. If a charge is made to the consumer for installing and connecting the service wires, this should be stated. State the character of the service, whether twenty-four (24)-hour or limited until midnight, whether the service is limited to certain hours of the day, on-peak, off-peak, optional service, auxiliary service, breakdown service, and the like. The kind of current, such as alternating or direct, together with the voltage, phase and frequency must be given in all cases;

(13) A change in a schedule shall be known as an amendment and shall be published in a supplement to the schedule which it amends, specifying the schedule by its PSC number. The supplement shall be republished each time an amendment is made and shall always contain all the amendments to the schedule that are in force. Supplements to schedules shall be numbered consecutively as supplements to the schedules and shall not be given

new or separate PSC numbers. An amendment must always be published in the supplement in its entirety as amended.

(16) All changes in and additions to schedules issued in paper must be made by reprinting the sheet upon which the change is made. Those pages or sheets shall not be given supplement numbers, but must be designated "First revised page or sheet," "Second revised page or sheet," and the like and must show the name of the issuing corporation and the PSC number of the schedule, the issued and effective dates and the name, title and address of the officer by whom issued.

(18) The provisions of section (15) of this rule as to the number of supplements to a schedule that may be in effect at any time and the volume of supplemental matter they may contain need not be observed in connection with a supplement issued under sections (14)-(18) of this rule.

(21) All changes in rates, charges, or rentals or in rules that affect the rates, charges, or rentals shall be filed with the commission at least thirty (30) days before the date upon which they are to become effective. The title page of every rate schedule or supplement and the reissue on any page or sheet must show a full thirty (30) days' notice except as otherwise provided in this rule. The proposed change shall be accompanied by a brief summary, approximately one hundred (100) words or fewer, of the effect of the change on the company's customers. A copy of any proposed change and summary shall also be served on the public counsel and be available for public inspection and reproduction during regular office hours at the general business office of the utility.

(22) Each electrical corporation has the duty of filing with the commission all its schedules of rates and supplements or any rule relative to them which may be announced by the commission, under penalty for failure to do so. The commission will give consistent assistance as it can in this respect, but the fact that the receipt of a rate schedule or a supplement to a rate schedule is acknowledged by the commission, or the fact that a rate schedule or supplement to a rate schedule is in the files of the commission, will not serve or operate to excuse the electrical corporation from its responsibility or liability for any violation of the law or of any ruling lawfully made which may have occurred in connection thereunder with the construction of filing of a rate schedule or supplement.

(24) Except as is otherwise provided, no schedule or supplement will be accepted for filing unless it is delivered to the commission free from all charges or claims for postage, the full thirty (30) days required by law before the date upon which the schedule or supplement is stated to be effective. No consideration will be given to or for the time during which a schedule or supplement may be held by the post office authorities because of insufficient postage. When a schedule or a supplement is issued and as to which the commission is not given the statutory notice, it is as if it had not been issued and a full statutory notice must be given of any reissue. In these cases the schedule will be returned to the sender and correction of the neglect or omission cannot be made which takes into account any time elapsing between the date upon which that schedule or supplement was received and the date of the attempted correction. For rate schedules and

supplements issued on short notice under special permission of the commission, literal compliance with the requirements for notice named in any order, regulation, or permission granted by the commission will be exacted.

(28) Electrical corporations shall file any rate schedule, supplement, or other charges or regulations with the commission via the Electronic Filing and Information System (EFIS), or if filing a paper copy, to transmit or hand-deliver one (1) copy of each rate schedule, supplement, or other charges or regulations for the use of the commission. Schedules sent for filing must be addressed to Public Service Commission, PO Box 360, Jefferson City, MO 65102.

(29) All schedules filed with the commission shall be accompanied by a letter of transmittal which shall be prepared consistent with the format designated by the commission. If filing a paper copy and a paper receipt is desired, a duplicate copy should be submitted for return.