



Robin Carnahan
Secretary of State

**Administrative Rules Division
Rulemaking Transmittal Receipt**

Rule ID: 6892
Date Printed: 6/15/2007
Rule Number: 4 CSR 240-23.020
Rulemaking Type: Proposed Rule
Date Submitted to Administrative Rules Division: 6/15/2007
Date Submitted to Joint Committee on Administrative Rules: 6/15/2007

Name of Person to Contact with questions concerning this rule:

Content: Colleen Dale	Phone: 751-4255	Email: cully.dale@psc.mo.gov	Fax: 526-6010
RuleDataEntry:	Phone:	Email:	Fax:

Included with Rulemaking:

Cover Letter	6/15/2007
Affidavit for public cost	6/15/2007

Print Close

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Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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Rule Number 4 CSR 240-23.020

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

Name of person to call with questions about this rule:

Content Colleen M. Dale Phone 573-751-4255 FAX 751-526-6010

Email address cully.dale@psc.mo.gov

Data Entry same

Phone

FAX

Email address

Interagency mailing address Public Service Commission, 9th floor , Governor Office Bldg

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

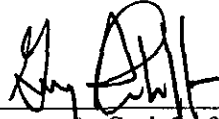
JCAR Stamp

JOINT COMMITTEE ON
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**AFFIDAVIT
(PUBLIC COST)**

STATE OF MISSOURI)
)
COUNTY OF COLE)

I, Gregory A. Steinhoff, Director of the Department of Economic Development, first being duly sworn on my oath, state that it is my opinion that the attached fiscal note for proposed rule 4 CSR 240-23.020 is a reasonably accurate estimate.



Gregory A. Steinhoff
Director
Department of Economic Development

Subscribed and sworn to before me this 31 day of May, 2007. I
am commissioned as a notary public within the County of COLE, State of
Missouri, and my commission expires on 17 July 2007.



NOTARY PUBLIC

<p style="text-align: center;">ANNETTE KEHNER Notary Public - Notary Seal STATE OF MISSOURI Cole County My Commission Expires: July 17, 2007</p>

FISCAL NOTE

PUBLIC COST

I. RULE NUMBER

Rule Number and Name	4 CSR 240-23.020, Electrical Corporation Infrastructure Standards
Type of Rulemaking:	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Affected Agency or Political Subdivision	Estimated Cost of Compliance in the Aggregate
Missouri Public Service Commission	\$65,767 first year, \$60,747 each year thereafter

III. WORKSHEET

0.5 FTE Utility Engineering Specialist III \$25,116 annually

0.5 FTE Utility Engineering Specialist II \$22,236 annually

First year equipment \$5,020

Annual Equipment Expense \$1,090

Annual Office Space Rental \$2,700

Annual Travel Expense \$9,605

IV. ASSUMPTIONS

All costs in 2007 dollars

Costs reflect estimates provided for other fiscal notes for various General Assembly bills from this year's session.

A total of two additional FTEs were assumed for this rule and the Vegetation Management Standards rule that is also being considered. Their time is assumed to be evenly split between these two rules. In most cases, these FTEs will be able to conduct reviews of the utilities' infrastructure inspection and vegetation management practices in the same visit. This should reduce their travel time and increase their productivity. However, these reviews will require facility reviews (including walking electric lines and observing utility employees performing the various tasks required by these rules) and on-site document reviews at various district/division offices. This will also require reports by these two FTEs on the status of the utilities' efforts at various times of the year.

FISCAL NOTE

PRIVATE COST

I. RULE NUMBER

Rule Number and Name:	4 CSR 240-23.020 Electrical Corporation Infrastructure Standards
Type of Rulemaking	Proposed Rule

II. SUMMARY OF FISCAL IMPACT

Estimate of the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Four (4)	Investor Owned Electric Utility Companies	
	AmerenUE	Implementation: \$900,000 \$15,300,000 annually
	Empire	Implementation - \$6,700,000 – 9,900,000 \$6,600,000 – 12,800,000 annually
	Aquila	Implementation - \$12,800,000 \$4,503,500 annually
	Kansas City Power & Light	Implementation – None listed \$3,649,372 annually

III. WORKSHEET

IV. ASSUMPTIONS

AmerenUE:

1. "Rural" service areas are defined as Green Hills, Little Dixie, Capital, Lakeside, Jefferson, Franklin, Ironton, St. Francois, and Southeast.
2. "Urban" services areas are defined as Wentzville, St. Charles, Ellisville, Dorsett, Berkeley, Geraldine, and Mackenzie.
3. Poles, wires, cables, transformers, and hardware are visually inspected once a year during the "Patrol" inspection.
4. Overhead Conductor and Cables do not receive a "Detail" inspection as there is no current method to perform such an inspection.
5. No "Patrol" or "Detail" inspection methods are available for Underground Cable.
6. All wood poles receive an "Intrusive" inspection every 12 years
7. All wood poles must have "Intrusive" inspection by age 25.
8. All inspections involve lines with voltages less than 100 kV.

9. All inspections are performed with contractor labor.
10. All costs are current with no escalation factors.
11. Material costs are 18% of total costs.
12. Costs to "Patrol" inspect wood poles are estimated at \$10 per pole.
13. Costs to "Intrusive" inspect / retreat wood poles are estimated at \$62 per pole.
14. Costs to "Patrol" inspect padmount transformers are estimated at \$10 per transformer.
15. Costs to "Detail" inspect padmount transformers are estimated at \$60 per transformer.

Empire:

1. Empire's system is 50% rural and 50% urban except all padmount equipment is considered urban.
2. "Patrol" is a simple visual inspection for obvious problems (binoculars are not used during this inspection).
3. "Detail" requires an up-close visual inspection of all equipment, connections, insulators, and infrared inspection; therefore, each pole must either be climbed or viewed from a bucket. This interpretation of the rule requires a larger increase in the number of FTE's and accounts for the "Max" totals.
4. "Detail" inspection of padmount equipment requires that each padmount device be opened for visual inspection of connections. An infrared inspection is also performed on the device and connections. This interpretation of the rule requires a larger increase in the number of FTE's and accounts for the "Max" totals.
5. No "Patrol" or "Detail" of inspection of underground cable (not sure how it would be performed).
6. All Labor would be additional company labor except for intrusive pole inspections (cost would be higher if contracted, assuming personnel are available).
7. Wood poles receive an intrusive inspection every 10 years.
8. A range of costs have been provided due to the uncertainty of the results of the more rigorous inspection(s) required by this rule.

Aquila:

No Assumptions made

Kansas City Power & Light:

1. Rural" service area in Missouri is defined as the area bounded by the East District operations region, spanning several counties in mid and western Missouri.
2. "Urban" services areas are defined as the area bounded by the Northland, FM, Dodson operations region that spans Clay, Platte, Jackson, and Cass Counties in Missouri.
3. The following inspection programs listed below are being considered, based on the definitions in the CSR request. Our cost estimates only include the cost for a visual inspection. Detail inspections involving diagnostic methods are not considered. If a detailed inspection is required of distribution assets including poles, transformers, reclosers, etc, the annual cost of these inspections will increase by an additional \$4.137 million per year. Intrusive costs related to the wood pole inspection program are included, which are generally defined as applying ground-line or internal treatments.

Thermal inspection of distribution circuits

Comprehensive visual inspection of distribution circuits

Manhole inspection of structure and network, submersible equipment

Inspection and treatment of distribution wood poles on a 10-year cycle

Overhead and padmount transformer inspection

Overhead and underground switches and protective devices including fuse points

Inspection of URD cable at the termination points

Visual inspection of street light systems

Visual inspection of line control equipment such as regulators, reclosers, and capacitors

4. Much of the resource and cost information generated is from KCP&L's audit reports generated by the Asset Management Dept. All the inspection programs except the Wood Pole Inspection program are performed with KCP&L labor at a rate of \$40 per man-hour with no escalation factors.
5. Pricing information for the wood pole inspection and treatment program comes from the Osmose Co. KCP&L applied treatment options based on our experience with Osmose on our system. A 10-year treatment cycle is assumed. These inspection/treatments are performed with contractor labor.
6. All inspections involve lines with voltages 34kv and less.
7. The City of Kansas City Missouri purchased the street lighting system from KCP&L and is responsible for the inspection and maintenance of the system.
8. Unit costs for inspections are provided.
9. Cost are estimated for the support activities such as computer hardware and software, labor staffing of IT, Mapping, Resource Management, Engineering, and Operations. Ongoing programming and project management activities will be necessary to sustain the inspection programs.

Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 23 – Electric Utility Operational Standards

PROPOSED RULE

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4 CSR 240-23.020 Electrical Corporation Infrastructure Standards. Commissioner Connie Murray dissented from the decision to propose the following rule. The text of her dissent follows the language of the proposed rule below.

PURPOSE: This rule establishes the minimum requirements for the distribution and transmission facilities of electrical corporations as defined in Section 386.020(15) RSMo. Cum. Supp. 2005 regarding inspection (including maximum allowable inspection cycle lengths), condition rating, scheduling and performance of corrective action, record-keeping, and reporting, in order to ensure safe and high-quality electrical service. These requirements shall be based on factors such as applicable industry codes, national electric industry practices, manufacturer's recommendations, sound engineering judgment and past experience.

(1) **Applicability.** This rule applies to all electrical corporations as defined in Section 386.020(15) Cum. Supp. 2005.

(2) **Definitions.** For the purpose of this Rule:

(A) **Corrective Action** means maintenance, repair, or replacement of electrical corporation equipment and structures so that they function properly and safely.

(B) **Detailed inspection** means an inspection where individual pieces of equipment and structures are carefully examined, visually and through use of routine diagnostic testing, as appropriate, and (if practical and if useful information can be so gathered) opened, and the condition of each rated and recorded.

(C) **Intrusive inspection** means an inspection involving movement of soil, taking samples for analysis, and/or using more sophisticated diagnostic tools beyond visual inspections or instrument reading.

(D) **Operating Area** means a geographical subdivision of each electrical corporation's franchise territory as defined by the electrical corporation. These areas may also be referred to as regions, divisions or districts.

(E) **Patrol** means a simple visual inspection, of applicable electrical corporation equipment and structures, that is designed to identify obvious structural problems and hazards. Patrols may be carried out in the course of other company business.

(F) **Rural** means those areas with a population of less than one thousand (1,000) persons per square mile as determined by the most recent United States Bureau of the Census.

(G) **Urban** means those areas with a population of more than one thousand (1,000) persons per square mile as determined by the most recent United States Bureau of the Census.

(3) **Standards for Inspection, Record-keeping, and Reporting.**

(A) Each electrical corporation subject to this rule shall conduct inspections of its distribution facilities, as necessary, to assure reliable, high-quality, and safe operation, but in no case may the period between inspections (measured in years) exceed the time specified in the

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attached table titled "Electrical Corporation System Inspection Cycles (Maximum Intervals in Years)".

(B) Each electrical corporation subject to this rule shall file at the commission by no later than January 1, 2008, compliance plans for the inspections and record-keeping required by this rule, with verification by affidavit of an officer who has knowledge of the matters stated therein. These compliance plans will include the proposed forms and formats for annual reports and source records, as well as the electrical corporation's plans for the types of inspections and equipment to be inspected during the coming year. For detailed and intrusive inspections, schedules should be detailed enough (in terms of the months of inspection and the circuit, area, or equipment/to be inspected) to allow commission staff to confirm that schedule inspections are proceeding as planned. For patrol inspections, electrical corporations should explain how all required facilities will be covered during the year. The energy department or any successor staff departments may prescribe changes relating to reporting and record-keeping formats and forms when and as necessary as approved by the commission if the electrical corporation does not voluntarily agree to the changes requested by staff. None of these changes may conflict with the requirements of this rule unless specifically approved by the commission through a variance.

(C) Each electrical corporation subject to this rule shall file at the commission an annual report detailing its compliance with this rule, with verification by affidavit of an officer who has knowledge of the matters stated therein. The first report required under this section shall be filed with the commission by no later than July 1, 2009. Each electrical corporation shall file subsequent annual reports for every following year by no later than July 1. The report shall identify the number of facilities, by type, which have been inspected during the previous period. It shall identify those facilities which were scheduled for inspection but which were not inspected according to schedule and shall explain why the inspections were not conducted, and a date certain by which the required inspection will occur. The report shall also present the total and percentage breakdown of equipment rated at each condition rating level, including that equipment determined to be in need of corrective action. Where corrective action was scheduled during the reporting period, the report will present the total and percentage of equipment which was and was not corrected during the reporting period. For the latter, an explanation will be provided, including a date certain by which required corrective action will occur. The report will also present totals and the percentage of equipment in need of corrective action, but with a scheduled date beyond the reporting period, classified by the amount of time remaining before the scheduled action. All of the above information shall be presented for each type of facility identified in the attached table titled "Electrical Corporation System Inspection Cycles (Maximum Intervals in Years)" and shall be aggregated by operating area.

(D) The company shall maintain records of inspection activities which shall be made available to commission staff for inspection pursuant to Section 393.140 RSMo 2000 and 4 CSR 240-10.010.

(E) For all inspections, within a reasonable period, company records shall specify the circuit, area, or equipment inspected, the name of the inspector, the date of the inspection, and any problems identified during each inspection, as well as the scheduled date of corrective action. For detailed and intrusive inspections, companies shall also rate the condition of inspected equipment. Upon completion of corrective action, company records will show the nature of the work, the date, and the identity of persons performing the work.

(F) Where facilities are exposed to extraordinary conditions or when an electrical corporation has demonstrated a pattern of non-compliance with Commission Safety Standards, 4

CSR 240-18; Electrical Corporation Infrastructure Standards, 4 CSR 240-23.020; and/or Reliability Rules, 4 CSR 240-23.030, the commission may require a shorter interval between inspections.

(G) Commission staff shall review each electrical corporation's annual report and shall inspect and verify that the electrical corporation is in compliance with this rule.

(H) If the company discovers, or should have discovered, upon inspection as required under this rule, or the company is otherwise given notice that corrective action of an electrical corporation's facility is required due to standards to be exercised by a prudent electrical corporation then the electrical corporation shall take such corrective action within a reasonable period of time. If harm to person or property is possible if corrective action is not taken then such corrective action shall be made immediately.

(4) Penalties, Fines, Sanctions and/or Ratemaking Disallowances.

(A) Failure to comply with any provision of this rule may subject the violator to penalties, fines, sanctions and/or ratemaking disallowances in accordance with the commission's statutory authority. No penalties, fines, sanctions and/or ratemaking disallowances shall be imposed for violations of this rule for a period of six months from the effective date of this rule.

(B) An electrical corporation that violates this rule may be subject to a penalty of not less than one hundred dollars (\$100) and not more than two thousand dollars (\$2,000) per day per violation, for each day the violation occurs as permitted under Missouri Statutes. The commission shall notify the electrical corporation of the violation(s) in writing. Upon receipt of the written notice of violation, the electrical corporation shall have five (5) business days to correct the violation(s). Any failure to correct the violation may subject the electrical corporation to a penalty of not less than one hundred dollars (\$100) per day for each violation, calculated from the day such written notice was received by the electrical corporation.

(C) The commission may consider violations of this rule as a relevant factor in setting rates for the electrical corporation in a case where the commission is examining the propriety of the electrical corporation's rates.

(D) Penalties, fines, sanctions and/or ratemaking disallowances imposed for violations of this rule are in addition to, not a replacement for, other penalties, fines and/or sanctions that apply under other state laws and regulations and under federal laws and regulations.

(E) In determining the appropriate penalties, fines, sanctions and/or ratemaking disallowances for violation of this rule, the commission shall consider the following criteria, and any other factors deemed appropriate and material to the electrical corporation's delay or failure to comply:

1. The good faith efforts, if any, of the electrical corporation in attempting to comply with this rule;
2. The gravity of the violation;
3. The number of past violations by the electrical corporation, including violations of this rule, as well as of other standards, guidelines and procedures adopted by the commission;
4. The appropriateness of the sanction(s) in light of the size of the electrical corporation;
5. Events judged by the commission to be beyond the control of the electrical corporation; and
6. Mitigating factors.

(5) Variances. A variance from a provision of this rule may be granted only for good cause shown.

Electrical Corporation System Inspection Cycles (Maximum Intervals in Years)

	Patrol		Detailed		Intrusive	
	Urban	Rural	Urban	Rural	Urban	Rural
Transformers						
Overhead	1	2	5	5	---	---
Underground – Direct Buried Distribution Circuits	1	2	3	3		
Underground- Buried Distribution Circuits constructed of Ethylene Propylene Rubber (EPR)	1	2	5	5		
Padmounted	1	2	5	5	---	---
Switching/Protective Devices						
Overhead	1	2	5	5	---	---
Underground – Direct Buried Distribution Circuits	1	2	3	3		
Underground- Buried Distribution Circuits constructed of (EPR)	1	2	5	5		
Padmounted	1	2	5	5	---	---
Regulators/Capacitors						
Overhead	1	2	5	5	---	---
Underground – Direct Buried Distribution Circuits	1	2	3	3		
Underground- Buried Distribution Circuits constructed of (EPR)	1	2	5	5		
Padmounted	1	2	5	5	---	---
Overhead Conductor and Cables	1	2	5	5	---	---
Streetlighting	1	2	x	x	---	---
Wood Poles under 15 years	1	2	x	x	---	---
Wood Poles over 15 years which have not been subject to intrusive inspection	1	2	x	x	10	10
Wood poles which passed intrusive inspection	---	---	---	---	12	12

AUTHORITY: sections 386.040, 386.250, 386.310 and 393.140 RSMo 2000, and 393.130 RSMo Supp. 2006.

PUBLIC COST: This proposed rule will cost state agencies or political subdivisions approximately sixty-five thousand seven hundred sixty-seven dollars (\$65,767) in the first year of implementation and sixty thousand seven hundred forty-seven dollars (\$60,747) per year, thereafter.

PRIVATE COST: This proposed rule will cost private entities approximately fifty-nine million eight hundred fifty-two thousand eight hundred seventy-two dollars (\$59,852,872) in the first year of implementation and thirty-six million two hundred fifty-two thousand eight hundred seventy-two dollars (\$36,252,872) per year, thereafter.

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, Colleen M. Dale, Secretary of the Commission, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices on or before August 15, 2007, and should include a reference to Commission Case No. EX-2007-0214. 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 August 15, 2007 at 10:00 a.m. in the commission's offices in 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 (voice) or Relay Missouri at 711.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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In the Matter of Filing Requirement Rules)
For Electric Utilities.)

Case No. EX-2007-0214

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Electrical Corporation Infrastructure Standards Rule 4 CSR 240-23.020

DISSENTING OPINION OF COMMISSIONER CONNIE MURRAY

I must dissent from the majority's decision to send the Electrical Corporation Infrastructure Standards Rule, in its present form, to the Missouri Secretary of State. Both, this proposed rule and the proposed rule "4 CSR 240-23.030 Electrical Corporation Vegetation Management Standards and Reporting Requirements," in my opinion, are an apparent over-reaction to recent storm outages and to reports of reliability issues experienced by a single utility. These rules were hurriedly drafted without the opportunity for a deliberate and detailed technical and legal review by Commission staff that would have otherwise been employed in the ordinary course of rulemaking.

Approximately three months ago, the Commission's technical and legal staff presented a draft rulemaking that was well thought out and drafted in a manner that provided an excellent base from which to incorporate performance standards. After discussing this draft in Agenda, Staff was directed to draft performance standards to be included in the draft and bring the draft proposed rulemaking back to the Commission for further review. Prior to Staff's revised draft rule being completed and brought back to the Commission, the set of rules which was voted upon today and for

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which I write this dissent was offered, and as a result, the Staff's draft rule was never recalled to Agenda for further discussion by the Commission.

The rule that is being sent to the Missouri Secretary of State is overbroad, fiscally irresponsible and unworkable. If promulgated, the fiscal note shows, the rule would create enormous costs for both the Commission and the Missouri utilities which are subject to the rule. The degree of specificity, burdensome notification and reporting requirements, strict and sometimes conflicting timelines, and heavy fines and penalties for non-compliance combine to remove the utilities' flexibility to accomplish the ultimate goal of providing a higher degree of reliability, all at a cost of tens of millions of dollars annually that would ultimately be borne by ratepayers. Further, the fiscal note shows that the review and inspection requirements inuring to the Commission Staff will require the equivalent of an additional full time employee than the Commission currently employees and cost over \$60,000 annually, further driving up costs to ratepayers.

I cannot support this attempt to compile the strictest rules that could be located from various states into one melting pot to be promulgated into law. It is my belief that government agencies have a duty to put forth rules that are clear, understandable and are no more burdensome, costly or intrusive than necessary to accomplish a legitimate state interest. Such a proposed rule provides the public a meaningful opportunity to contribute to the rulemaking process by suggesting exact and detailed substantive changes, rather than changes to general concepts a rule such as this invites. I believe that a more prudent approach would have been to take the time necessary for Staff and the Commission to review and evaluate the potential

effects of the rulemaking on all relevant parties, obtain stake-holder input and establish a well reasoned rulemaking.

The Missouri Public Service Commission has a legitimate interest in requiring its regulated electric utilities to manage and maintain their infrastructure and control vegetation in such a way that ensures the provision of safe, adequate and reliable service. Protecting that interest could be and should be accomplished by a rulemaking more in line with that originally drafted by the technical and legal staff of the Commission.

This dissent should in no way be construed to mean that I oppose the concept of such a rulemaking. I believe that reasonable infrastructure standards are appropriate and administrative rules are needed. However, the proposed rulemaking adopted by the Commission today does not serve the best interest of Missouri and its citizens.

For these reasons, I do not support today's vote to send the proposed rule to the Missouri Department of Economic Development for review.

Respectfully submitted,

Connie Murray, Commissioner

Dated at Jefferson City, Missouri
on this 14th day of June 2007.