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SECRETARY OF STATE
ADMINISTRATIVE RULES

COPY



Missouri Public Service Commission

Commissioners
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Chair
CONNIE MURRAY
STEVE GAW
BRYAN FORBIS
ROBERT M. CLAYTON III

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August 15, 2003

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

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

Dear Secretary Blunt:

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

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the emergency rule lawfully submitted by the Missouri Public Service Commission on this fifteenth day of August 2003.

I further certify that the emergency rule is supported by a compelling governmental interest, the reasons for which are stated in the "Emergency Statement" for the rule.

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

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
Public Service Commission
State of Missouri

DHR:SD:ss
Enclosures:

Transmittal Form, Emergency Rule 4 CSR 240-3.440, electronic copy of
Emergency Rule on 3.5 diskette

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MATT BLUNT
Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

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, Current RSMo date 2000
386.250 and 393.140 RSMo 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)

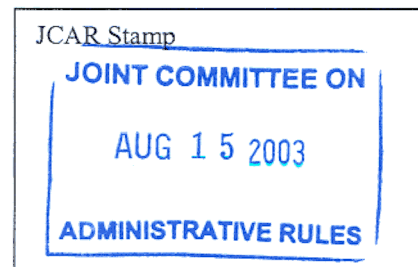
B. CHECK, IF INCLUDED:

- | | |
|--|---|
| <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 type="checkbox"/> Affidavit | <input type="checkbox"/> Public cost |
| <input type="checkbox"/> Forms, number of pages <u> </u> | <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 August 28, 2003
- ☐ 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).



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

1a. Effective Date for the Order

☐ Statutory 30 days

Specific date August 28, 2003

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.

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Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240 – Public Service Commission

Chapter 3 – Filing and Reporting Requirements

JOINT COMMITTEE ON

AUG 15 2003

ADMINISTRATIVE RULES

SECRETARY OF STATE

ADMINISTRATIVE RULES

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

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.

*EMERGENCY STATEMENT: Small steam heating utilities provide essential services to commercial businesses and industrial customers in several large urban areas of Missouri. This emergency rulemaking will establish small company ratemaking procedures for small steam heating utilities that should be less costly and expedited. This rulemaking was mandated by the 92nd General Assembly in House Bill 208, which Governor Holden signed on July 16, 2003 and which becomes effective August 28, 2003. The Commission finds a compelling governmental interest exists to implement the rule the date the law becomes effective so as to permit small steam heating utilities to utilize the statute immediately, which necessitates this emergency action. A proposed rule, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Commission believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed August 15, 2003, effective August 28, 2003 and expires February 24, 2004.*

(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. Emergency rule filed August 15, 2003, effective August 28, 2003, expires February 24, 2004. A proposed rule covering the same subject matter will be published in the Missouri Register.

MEMORANDUM

TO: Dale Hardy Roberts, Secretary

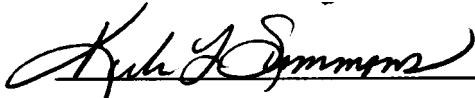
THROUGH: Dan Joyce *DJ*

FROM: Steven Dottheim

DATE: August 14, 2003

SUBJECT: Case No. HX-2004-0081:
APPROVAL OF EMERGENCY RULE 4 CSR 240-3.440 AND
AUTHORIZATION TO FILE EMERGENCY RULE 4 CSR 240-3.440
WITH THE OFFICE OF THE SECRETARY OF STATE -

The undersigned Commissioners hereby approve emergency rule 4 CSR 240-3.440 and authorize the General Counsel's Office of the Missouri Public Service Commission to file the emergency rule packet for 4 CSR 240-3.440 with the Office of the Secretary of State.


Kelvin Simmons, Chair


Connie Murray, Commissioner


Steve Gaw, Commissioner


Bryan Forbis, Commissioner


Robert M. Clayton, Commissioner