

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

FILED⁴
JUL 11 2002
Missouri Public
Service Commission

In the Matter of Proposed Amendments to)
Commission Rules 4 CSR 240-40.020 and)
40.030.)

Case No. GX-2001-91

STAFF MEMORANDUM

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through its Office of General Counsel, pursuant to section 536.200 RSMo 2000, and for its Memorandum states as follows:

1. The certification agreement between the Missouri Public Service Commission (Commission) and the U.S. Department of Transportation-Office of Pipeline Safety requires the Commission to adopt regulations that are at least as stringent as the federal regulations. Federal regulations were adopted that were more stringent than the previous Commission regulations. The Commission amended 4 CSR 240-40.020, Incident, Annual and Safety-Related Condition Reporting Requirements, and 4 CSR 240-40.030, Safety Standards-Transportation of Gas by Pipeline, to incorporate the following federal amendments to 49 CFR parts 191 and 192: 191-14, 192-82 through 192-88. Both rulemakings were adopted by an *Order of Rulemaking* issued by the MoPSC and published in the *Missouri Register* on April 16, 2001, with an effective date of May 30, 2001. The first full fiscal year for these two rulemakings was FY02, which ended on June 30, 2002.

2. Section 536.200 required the Commission to file affidavits with its rulemaking that the "proposed change will cost less than five hundred dollars in the aggregate to all such agencies and political subdivisions." Section 536.200 also requires a filing with the Secretary of

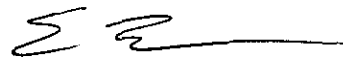
State's Office if the proposed amendment results in costs exceeding \$500 for public entities in the first year of the rule's implementation. As the amendments were simply making the Missouri rules in compliance with the already existing federal rules, there were no additional fiscal impacts of the rules. The Gas Safety Staff is providing its Memorandum, attached hereto as Appendix A, to inform the Commission that there were no further fiscal impacts of these amended rules.

3. As there are no further fiscal impacts, the Staff requests that this pleading be placed in the official case file and that the case be closed as no further filings or actions are likely to occur in this case.

WHEREFORE, the Staff of the Missouri Public Service Commission respectfully requests that the Commission review this filing and that the Commission then close the case, as no further action is necessary.

Respectfully submitted,

DANA K. JOYCE
General Counsel




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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or emailed to all counsel of record this 11th day of July 2002.



MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. GX-2001-91; Amend Rules 4 CSR 240-40.020 and 4 CSR 240-40.030

FROM: ^{gk} John Kottwitz, Energy Department – Gas Safety/Engineering

Robert R. Pennington 7/9/02
Project Coordinator / Date

Wm K. Haas 07/11/02 ^{EW A} 7/14/02
General Counsel's Office / Date

SUBJECT: Staff Review of Costs Incurred during the First Full Fiscal Year

DATE: July 9, 2002

On September 28, 2000, the Missouri Public Service Commission (MoPSC) issued an Order Finding Necessity For Rulemaking in Case No. GX-2001-91. On December 14, 2000, the MoPSC filed two proposed rulemaking packets with the Secretary of State's office. The two proposed rulemakings were Proposed Amendments for 4 CSR 240-40.020 and 4 CSR 240-40.030. These two proposed rulemakings were published in the *Missouri Register* on January 16, 2001. Both rulemakings were adopted by an *Order of Rulemaking* issued by the MoPSC and published in the *Missouri Register* on April 16, 2001, with an effective date of May 30, 2001. The first full fiscal year for these two rulemakings was FY02, which ended on June 30, 2002.

Section 536.200 of the *Missouri Revised Statutes* requires that a state agency file a fiscal note if the adoption, amendment, or rescission of the rule would result in \$500 of increased costs or decreased revenues for public entities. Section 536.205 of the *Missouri Revised Statutes* requires that a state agency file a fiscal note if the adoption, amendment, or rescission of the rule would result in \$500 of increased costs or decreased revenues for private entities. Both proposed rulemakings in Case No. GX-2001-91 included statements about the estimated costs to public and private entities as required. Section 536.205 of the *Missouri Revised Statutes* does not address a future review of actual costs to private entities, but Section 536.200 further requires for public entity fiscal notes that:

2. If at the end of the first full fiscal year after the implementation of the rule, amendment, or rescission the cost to all affected entities has exceeded by ten percent or more the estimated cost in the fiscal note or has exceeded five hundred dollars if an affidavit has been filed stating the proposed change will cost less than five hundred dollars, the original estimated cost together with the actual cost during the first fiscal year shall be published by the adopting agency in the *Missouri Register* within ninety days after the close of the fiscal year. Such costs shall be determined by the adopting agency. If the adopting agency fails to publish such costs as required by this section, the rule, amendment, or rescission shall be void and of no further force or effect.

As required by Section 536.200 of the *Missouri Revised Statutes*, the Staff has reviewed the public entity cost during the first full fiscal year after implementation of the two rulemakings in Case No. GX-2001-91. MoPSC Internal Procedure IP-9 states that the Staff should investigate the cost to all affected entities and prepare a memorandum showing the investigation results within 30 days after the first full fiscal year. This memorandum is intended to meet these provisions in IP-9, and the statutory requirement shown above, for the two rulemakings in Case No. GX-2001-91 as follows.

1) Proposed Amendment for 4 CSR 240-40.020

The proposed amendment was published with statements that neither the public entity cost nor the private entity cost would exceed \$500 in the aggregate (page 181 from the 2001 *Missouri Register* is attached). The changes contained in the proposed amendment were editorial in nature and did not involve costs to public or private entities. Therefore, the Staff states that the costs did not exceed \$500 during the first full fiscal year.

2) Proposed Amendment for 4 CSR 240-40.030

The proposed amendment was published with statements that neither the public entity cost nor the private entity cost would exceed \$500 in the aggregate (page 200 from the 2001 *Missouri Register* is attached). The changes contained in the proposed amendment were to conform the rule to amendments of 49 CFR part 192, to clarify the rule, and to make editorial changes. These changes did not involve costs to public or private entities in excess of those costs required to comply with the federal amendments being adopted. Any federal amendment costs were considered during the federal rulemaking process, and would be incurred even in the absence of the proposed amendment. Therefore, the Staff states that the costs did not exceed \$500 during the first full fiscal year.

In conclusion, the Staff states that the actual costs did not exceed \$500 during the first full fiscal year after implementation of both rulemakings in Case No. GX-2001-91. Therefore, the Staff believes that the MoPSC is not required by Section 536.200 of the *Missouri Revised Statutes* to publish the estimated and actual costs in the *Missouri Register*. IP-9 specifies that if the investigation shows that costs have not exceeded \$500, then the Staff's memorandum shall be filed in the official case papers of the rule. Filing this official case file memorandum in Case No. GX-2001-91 will comply with that provision. No further action by the MoPSC is necessary.

Attachments (2)

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 40—Gas Utilities and Gas Safety Standards**

PROPOSED AMENDMENT

4 CSR 240-40.020 Incident, Annual and Safety-Related Condition Reporting Requirements. The commission is amending sections (1) and (12).

PURPOSE: This proposed amendment modifies the scope of this rule to be consistent with 4 CSR 240-40.030 for gathering lines and amends the rule to conform to an amendment of 49 CFR part 191.

(1) Scope. (191.1)

(B) This rule does not apply to *[onshore]* gathering of gas on private property outside of—

1. An area within the limits of any incorporated or unincorporated city, town or village; or
2. Any designated residential or commercial area such as a subdivision, business or shopping center or community development.

(12) Reporting Safety-Related Conditions. (191.23)

(B) A report is not required for any safety-related condition that—

1. Exists on a master meter system or a customer-owned service line;
2. Is an incident or results in an incident before the deadline for filing the safety-related condition report;
3. Exists on a pipeline (other than an LNG facility) that is more than two hundred twenty (220) yards (200 meters) from any building intended for human occupancy or outdoor place of assembly, except that reports are required for conditions within the right-of-way of an active railroad, paved road, street or highway; or
4. Is corrected by repair or replacement in accordance with applicable safety standards before the deadline for filing the safety-related condition report, except that reports are required for conditions under paragraph (12)(A)1. other than localized corrosion pitting on an effectively coated and cathodically protected pipeline.

AUTHORITY: sections 386.250, [and] 386.310, [RSMo Supp. 1999] and 393.140, RSMo [1994] 2000. Original rule filed Feb. 5, 1970, effective Feb. 26, 1970. Amended: Filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Feb. 8, 1985, effective Aug. 11, 1985. Rescinded and readopted: Filed May 17, 1989, effective Dec. 15, 1989. Amended: Filed Oct. 7, 1994, effective May 28, 1995. Amended: Filed April 9, 1998, effective Nov. 30, 1998. Amended: Filed Dec. 14, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the Missouri Register. Comments should refer to Case No. GX-2001-91 and be filed with an original and eight (8) copies. No public hearing is scheduled.

**Title 4—DEPARTMENT OF ECONOMIC
DEVELOPMENT
Division 240—Public Service Commission
Chapter 40—Gas Utilities and Gas Safety Standards**

PROPOSED AMENDMENT

4 CSR 240-40.030 Safety Standards—Transportation of Gas by Pipeline. The Commission is amending 4 CSR 240-40.030 sections (1)–(14), Appendix A, Appendix B and Appendix E.

PURPOSE: This amendment proposes to amend the rule to conform to amendments of 49 CFR part 192, to clarify the rule, and to make editorial changes.

(1) General.

(B) Definitions. (192.3) As used in this rule—

1. **Abandoned means permanently removed from service;**
[1.] 2. **Administrator** means the Administrator of the Research and Special Programs Administration of the United States Department of Transportation or any person to whom authority in the matter concerned has been delegated by the Secretary of the United States Department of Transportation;
[2.] 3. **Building** means any structure *[which]* that is regularly or periodically occupied by people;
[3.] 4. **Commission** means the Missouri Public Service Commission, and designated commission personnel means the Pipeline Safety Program Manager at the address contained in 4 CSR 240-40.020(5) for required correspondence;
[4.] 5. **Distribution line** means a pipeline other than a gathering or transmission line/;
5. **Feeder, and feeder line** means a distribution line that has a maximum allowable operating pressure (MAOP) greater than *[one hundred pounds per square inch gauge (100 psig), but] 100 psi (689 kPa) gauge* that produces hoop stresses less than twenty percent (20%) of specified minimum yield strength (SMYS);
6. **Follow-up inspection** means an inspection performed after a repair procedure has been completed in order to determine the effectiveness of the repair and to *[insure]* ensure that all hazardous leaks in the area are corrected;
7. **Fuel line** means the customer-owned gas piping downstream from the outlet of the customer meter or operator-owned pipeline, whichever is farther downstream;
8. **Gas** means natural gas, flammable gas, manufactured gas or gas which is toxic or corrosive;
9. **Gathering line** means a pipeline that transports gas from a current production facility to a transmission line or main;
10. **High-pressure distribution system** means a distribution system in which the gas pressure in the main is higher than an equivalent to fourteen inches (14") water column;
11. **Hoop stress** means the stress in a pipe wall acting circumferentially in a plane perpendicular to the longitudinal axis of the pipe produced by the pressure in the pipe;
12. **Listed specification** means a specification listed in subsection I. of Appendix B;
13. **Low pressure distribution system** means a distribution system in which the gas pressure in the main is less than or equal to an equivalent of fourteen inches (14") water column;
14. **Main** means a distribution line that serves as a common source of supply for more than one (1) service line;
15. **Maximum actual operating pressure** means the maximum pressure that occurs during normal operations over a period of one (1) year;

lines, at least one *[(1)]* additional test must be made at the customer's property line, approximately one hundred feet (100') from the structure, or at the service tap at the main, whichever is closest to the structure. In lieu of conducting the tests of the subsurface atmosphere, the operator may conduct a leak survey of this pipe with gas detection equipment capable of detecting gas concentrations of three hundred (300) parts per million, gas-in-air. These tests are not required for collections, discontinuance of service for nonpayment, meter readings, read-ins/read-outs, line locations, atmospheric corrosion protection work or general painting, when relighting after emergency outages or curtailments, when lighting customer pilot lights *[as part of a pilot lighting program]*, cathodic protection work, or if leak tests have been conducted at the location within the previous fifteen (15) months.

AUTHORITY: sections 386.250, *[and]* 386.310, *[RSMo Supp. 1997]* and 393.140, *RSMo [1994] 2000*. Original rule filed Feb. 23, 1968, effective March 14, 1968. For intervening history, please consult the *Code of State Regulations*. Amended: Filed Dec. 14, 2000.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file comments in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, P.O. Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty days after publication of this notice in the *Missouri Register*. Comments should refer to Case No. GX-2001-91 and be filed with an original and eight (8) copies. No public hearing is scheduled.

Service List for
Case No. GX-2001-91
Revised: July 11, 2002 (ccl)

Office of the Public Counsel
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