

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

In the Matter of a Proposed
Rulemaking to Amend Commission
Rule 4 CSR 240-18.010.

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Case No. EX-2012-_____

MOTION FOR FINAL ORDER OF RULEMAKING

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through its Office of General Counsel, pursuant to Section 536.016 RSMo 2000, and for its Motion for Final Order of Rulemaking states:

1. By reference, the Public Service Commission of Missouri (“Commission”) incorporates in rule 4 CSR 240-18.010 portions of the *National Electrical Safety Code*, as approved by the American National Standards Institute, for minimum operation safety standards that must be met by electrical corporations, telecommunications companies and rural electric cooperatives.

2. In the current rule the Commission references the 2007 edition of the *National Electrical Safety Code*, as approved by the American National Standards Institute on February 2007, with corrections issued October 5, 2006 and May 14, 2007. The *National Electrical Safety Code* is updated periodically and was last updated in August, 2011, effective January 1, 2012, with corrections issued February 6, 2012. This is the code to which utilities build their facilities, and the Staff believes the Commission’s rule 4 CSR 240-18.010 should be updated to incorporate references to this most recent 2012 version of *National Electrical Safety Code*, as corrected, rather than continuing to reference the 2007 edition.

3. The Legislature has given the Commission, through Section 386.310 RSMo 2000, rulemaking authority “to require every person, corporation, municipal gas system and public utility to maintain and operate its line, plant, system, equipment, apparatus, and premises in such manner as to promote and safeguard the health and safety of its employees, customers, and the public,” As to rural electric cooperatives, the Legislature has given the Commission, through Section 394.160 RSMo 2000, similar rulemaking authority.

4. Section 536.016 RSMo 2000 requires a state agency to find, based upon substantial evidence on the record, that a rule is necessary to carry out the purposes of the statute that granted the rulemaking authority.

5. Appended hereto as Attachment A is a position paper outlining the Staff’s rationale for amending rule 4 CSR 240-18.010.

6. Appended hereto as Attachment B is a marked up version of current 4 CSR 240-18.010 showing the amendments the Staff proposes the Commission should make to that rule.

WHEREFORE, the Staff respectfully requests that the Commission find that an amendment to rule 4 CSR 240-18.010 is necessary to update the minimum safety standards relating to the operation of electrical corporations, telecommunications companies and rural electric cooperatives; and clarify that the new standards apply only to new installations and extensions as described in the version of the *National Electrical Safety Code* adopted by the Commission for minimum safety standards.

Respectfully submitted,

/s/ Nathan Williams

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 5th day of April, 2012.

/s/ Nathan Williams

4 CSR 240-18.010 Rulemaking Issue Paper

RULEMAKING ISSUE PAPER

What is the problem and the proposed solution?

Problem: Rule 4 CSR 240-18.010 originally became effective on April 30, 2004. With it the Commission adopted portions of the 2002 National Electrical Safety Code (NESC). Effective November 30, 2008, the Commission amended this rule to update the adopted portions of the 2002 NESC to the corresponding portions of the 2007 NESC. The NESC is an American National Standard which implies a consensus of those substantially concerned with its scope and provisions. Utilities use the NESC to determine construction standards and minimum clearance for electric lines. This code is revised periodically; presently, it is revised every five years. The 2012 NESC was published in August 2011 and became effective in January 1, 2012. Errata to the 2012 Edition of the National Electrical Safety Code were issued on February 6, 2012.

Solution: The Commission rules should be updated to include the most recent safety standards of the 2012 NESC to protect the public.

What rule(s) would be affected?

4 CSR 240-18.010.

What is the rationale for making the suggested change now?

The 2012 NESC embodies revisions to provide added protection to the public and clarity for the users of the code in determining appropriate clearances. Adoption of the 2012 NESC would apply only to new construction. Existing facilities should be in compliance with the code in effect at the time of construction.

Revisions in the 2012 Edition of the NESC include changes to the scope, application, and definition rules to provide improved clarity in respect to whether the NESC of the National Electric Code (NEC) applies in certain situations. Wind load requirements were revised to allow easier determinations of loads on structures of particular heights as well as improve aeolian vibration limitation and extreme wind loading calculations. Inspection rules pertaining to underground cables were revised including direct buried cable and conduit systems. New work rules were added for determining electric arc ratings, associated minimum safe distances to work on energized gear and also appropriate apparel to be worn if working on energized gear.

Would this rule change existing or establish new process or procedures? Describe step by step.

No.

Who will be affected by the new rule?

Missouri regulated electric utilities, telecommunications companies and rural electric cooperatives are required to comply with 4 CSR 240-18.010 of the Commission rules.

What is the fiscal impact to PSC, to utilities/businesses, or citizens?

No fiscal impact to the PSC is expected. It is possible that regulated utilities may report an increase in cost for compliance with the 2012 NESC, but compliance with a national safety standard is necessary for the provision of electric service to the public in a safe manner.

Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240—Public Service Commission
Chapter 18—Safety Standards

PROPOSED AMENDMENT

4 CSR 240-18.010 Safety Standards for Electrical Corporations, Telecommunications Companies and Rural Electric Cooperatives

Purpose: This amendment changes the edition of the National Electrical Safety Code that the Public Service Commission adopts for the minimum safety standards applicable to electrical corporations, telecommunications companies and rural electric cooperatives, and clarifies that the new standards apply only to new installations and extensions.

PURPOSE: This rule prescribes minimum safety standards relating to the operation of electric utilities, telecommunications companies, and rural electric cooperatives. Adoption of this rule will [not only] inform the utilities of the minimum safety standards required by the commission and will be of assistance to the commission staff in carrying out its assigned duties.

PUBLISHER’S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) The minimum safety standards relating to the operation of electrical corporations, telecommunications companies, and rural electric cooperatives are Parts 1, 2, and 3 and Sections 1, 2, and 9 of the *National Electrical Safety Code* (NESC); [2007] **2012** Edition as approved by the American National Standards Institute on [June 16, 2006] **August 1, 2011**, as modified by Errata thereto issued on [October 5, 2006 and May 14, 2007] **February 6, 2012**, and published by the Institute of Electrical and Electronics Engineers, Inc., 3 Park Avenue, New York, NY 10016-5997. The NESC is composed of four (4) different parts and four (4) sections, each of which pertain to different aspects of the electric and telecommunications industries. Part 1 specifies rules for the installation and maintenance of equipment normally found in electric generating plants and substations. Part 2 pertains to safety rules for overhead electric and communication lines. Part 3 contains safety rules for underground electric and communication lines. Section 1 is an introduction to the NESC, Section 2 defines special terms, and Section 9 requires certain grounding methods for electric and communications facilities. The full text of this material is available at the Energy Department of the Public Service Commission, Suite 700, 200 Madison, Jefferson City, Missouri. This rule does not incorporate any subsequent amendments or additions.

(2) Electrical corporations, telecommunications companies, and rural electric cooperatives subject to regulation by this commission pursuant to Chapters 386, 392–394, RSMo 2000 shall comply with the safety standards established by this rule for new installations and extensions as described in the NESC.

(3) Incident reporting requirements for electrical corporations and rural electric cooperatives are found in 4 CSR 240-3.190(4).

(4) Those who excavate near underground facilities or conduct activities within ten feet (10') of overhead power lines are required to notify area utilities prior to engaging in such action, pursuant to the Underground Facility Safety and Damage Prevention Act, section 319.010 et seq., RSMo 2000, and the Overhead Power Line Safety Act, section 319.075 et seq., RSMo 2000.

*AUTHORITY: sections 386.310 and 394.160, RSMo 2000. * Original rule filed March 15, 1978, effective Oct. 2, 1978. Amended: Filed April 8, 1981, effective Oct. 15, 1981. Amended: Filed Feb. 9, 1984, effective June 15, 1984. Amended: Filed June 12, 1987, effective Sept. 15, 1987. Amended: Filed Jan. 5, 1990, effective April 13, 1990. Amended: Filed March 23, 1993, effective Oct. 10, 1993. Amended: Filed Aug. 27, 1999, effective Feb. 29, 2000. Amended: Filed Oct. 14, 2003, effective April 30, 2004. Amended: Filed May 2, 2008, effective Nov. 30, 2008. **Amended: Filed Month/Day, 2012, effective Month/Day, 2012***

**Original authority: 386.310, RSMo 1939, amended 1979, 1989, 1996 and 394.160, RSMo 1939, amended 1979.*

PUBLIC COST: *This proposed rule will not cost state agencies or political subdivisions in excess of \$500.00 in total.*

PRIVATE COST: *This proposed rule will not cost private entities in excess of \$500.00 in total.*

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, Steven C. Reed, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices on or before Month/Day/Year, and should include a reference to Commission Case No. EX-2012-####. 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 Month/Day/Year, at Time, in Room #### of the Governor Office Building, 200 Madison St., 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 or TDD Hotline 1-800-829-7541.


Notary Public