

John R. Ashcroft

Secretary of State
Administrative Rules
RULE TRANSMITTAL

Administrative Rules Stamp

RECEIVED

By Administrative Rules SOS at 3:50 pm, May 15, 2024

Rule Number 20 CSR 4240-40.100

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 Kayla Kliethermes 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 X 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:

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

RECEIVED

By JCAR at 3:19 pm, May 15, 2024



Missouri Public Service Commission

MAIDA J. COLEMAN
Commissioner

KAYLA HAHN
Chair

JASON R. HOLSMAN
Commissioner

GLEN KOLKMEYER
Commissioner

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://psc.mo.gov>

JOHN P. MITCHELL
Commissioner

May 15, 2024

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

Re: 20 CSR 4240-40.100 Renewable Natural Gas Program

Dear Secretary Ashcroft,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the proposed rule lawfully submitted by the Missouri Public Service Commission.

The Public Service Commission further certifies it has conducted an analysis of whether or not there has been a taking of real property pursuant to section 536.017, RSMo, that the proposed rule does not constitute a taking of real property under relevant state and federal law.

The Public Service Commission has determined and hereby also certifies that if the proposed rule does affect small business pursuant to sections 536.300 to 536.310, RSMo, a small business impact statement has been filed as required by those sections. If no small business impact statement has been filed the proposed rule either does not affect small business or the small business requirements do not apply pursuant to section 536.300.4, RSMo.

Statutory Authority: *sections 386.250, 386.310, 393.140, RSMo 2016; and 386.895, RSMo Supp. 2023*

If there are any questions regarding the content of this proposed rule, please contact:

Nancy Dippell
Secretary/Chief 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



Nancy Dippell

Nancy Dippell
Secretary

Enclosures



Missouri Public Service Commission

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Chair

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JOHN P. MITCHELL
Commissioner

May 15, 2024

Sarah Schappe
Director
Joint Committee on Administration Rules
State Capitol, Room B8A
Jefferson City, Missouri 65101

Re: 20 CSR 4240-40.100 Renewable Natural Gas Program

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Nancy Dippell
Secretary

Enclosures

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Michael L. Parson

GOVERNOR
STATE OF MISSOURI

April 30, 2024

Ms. Kayla Hahn
Public Service Commission
PO Box 360
Jefferson City, MO 65102

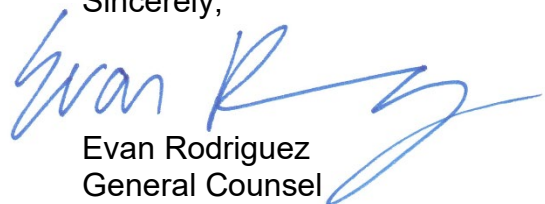
Dear Ms. Hahn:

This Office has received your Proposed Rule for the following regulation:

- 20 CSR 4240-40.100 Renewable Natural Gas Program

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, we approve the submission to the Joint Committee on Administrative Rules and the Secretary of State.

Sincerely,


Evan Rodriguez
General Counsel

Title 20—DEPARTMENT OF COMMERCE AND INSURANCE**Division 4240—Public Service Commission****Chapter 40—Gas Utilities and Gas Safety Standards****PROPOSED RULE****20 CSR 4240-40.100 Renewable Natural Gas Program.**

PURPOSE: This rule sets the definitions, structure, operation, and procedures relevant to gas corporations' Renewable Natural Gas programs.

(1) Definitions.

(A) **Energy Attribute Certificate** means as a contractual instrument that conveys information about a unit of energy, including the resource used to create the energy and the emissions associated with its production and use.

(B) **Pipeline quality standards** are standards established in 20 CSR 4240-10.030 Standards of Quality and are applicable to gas utilities submitting applications for Approval of a Renewable Natural Gas Program.

(C) **Renewable Natural Gas (RNG)** means any of the following products processed to meet pipeline quality standards or transportation fuel grade requirements:

1. **Biogas** that is upgraded to meet natural gas pipeline quality standards such that it may blend with, or substitute for, geologic natural gas; or
2. **Hydrogen gas** that is derived from electrolysis of water using renewable electricity; or
3. **Methane gas** derived from any combination of:
 - A. **Biogas**;
 - B. **Hydrogen gas** or carbon oxides derived from renewable energy sources; or
 - C. **Waste carbon dioxide**.

(D) **Renewable Natural Gas Rate Adjustment Mechanism (RNGRAM)** means a mechanism that allows periodic adjustments to recover prudently incurred costs and pass-through of benefits of any savings achieved in implementing an approved RNG program.

(E) **RNG Attributes** means an Energy Attribute Certificate specific to RNG which provides a monetary value besides the value of the natural gas itself.

(2) **Applications for Approval of a Renewable Natural Gas Program.** Pursuant to section 386.895, RSMo, a gas corporation may file an application with the commission for approval of a Renewable Natural Gas Program. Applications under this rule do not supersede a gas utility's obligation to apply for a certificate of convenience and necessity under section 393.170, RSMo. Applications shall include all applicable requirements under 20 CSR 4240-2.060 and the following:

- (A) A proposal to procure a total volume of renewable natural gas over a specific period;

(B) Identification of the qualified investments that the gas corporation may make in renewable natural gas infrastructure;

(C) A description of the ownership structure of the components of the RNG production facilities including, but not limited to, feed-stock, production, gas treatment, interconnection facilities, by-product, and other components as applicable by facility type;

(D) An explanation of how the utility will match generation with customer usage, be it on a retrospective or percentage basis;

(E) The specific location of the RNG facilities in relation to the utility's service territory;

(F) Expected production by calendar month;

(G) A description of the RNG plant operation;

(H) All prospective income tax credits;

(I) All prospective sales of Renewable Identification Numbers for RNG;

(J) Supportive direct testimony; and

(K) A cost-benefit analysis, including but not limited to:

1. Reasonably estimated upfront capital costs, broken down by the components referenced in subsection (2)(C) of this rule;

2. Reasonably estimated future capital costs;

3. Reasonably estimated operations and maintenance expenses;

4. If applicable, ongoing costs of procuring RNG or RNG attributes from the facility;

5. Expected useful life of facility components;

6. All supporting work papers with links and formulas intact;

7. A list and explanation of all assumptions utilized;

8. Support for all assumptions utilized, including source documentation;

9. Consideration of the timing of RNG production, including estimates of the amount of RNG produced by month, for the life of the proposed project;

10. Plans and costs to store produced RNG;

11. Estimated cost of procuring the same volume of natural gas from a pipeline, including estimates of the price per Million British Thermal Units (MMBtu) by month for the life of the proposed RNG project; and

12. All alternatives considered for procuring RNG or RNG attributes.

(3) Hydrogen gas programs, for safety and fuel quality reasons, will be evaluated on a case-by-case basis. All proposed hydrogen gas programs must include the requirements in section (2) and:

(A) Description of the impacted service area;

(B) Feasibility analysis;

(C) Analysis of customer owned equipment and piping to safely convey hydrogen;

(D) Proposed percentage of hydrogen to be mixed in fuel; and

(E) All relevant information to a customer bill that accounts for the differences in heat content of hydrogen compared to natural gas measured in British Thermal Unit (BTU) per hundred cubic feet (Ccf) of fuel.

(4) Cost Recovery and pass-through of benefits. A gas utility outside or in a general rate proceeding, and subsequent to or at the same time as the filing of an application in section (2), may file an application and rate schedules with the commission to establish, continue, modify, or discontinue a RNGRAM that shall allow for the adjustment of its rates and charges to provide for recovery of prudently incurred costs and pass-through of benefits as a result of its RNG program or hydrogen gas program. No recovery is allowed until the project is operational and produces RNG for customer use.

(A) At the time a gas utility files proposed rate schedules with the commission seeking to establish, modify, or reconcile a RNGRAM, it shall submit its supporting documentation regarding the calculation of the proposed RNGRAM and shall serve the Office of the Public Counsel (public counsel) with a copy of its proposed rate schedules and its supporting documentation. The utility's supporting documentation shall include workpapers showing the calculation of the proposed RNGRAM and shall include, at a minimum, the following information:

- 1. A complete explanation of all of the costs, both capital and expense, incurred for its RNG program that the gas utility is proposing be included in rates and all revenues and the specific account used for each item;**
- 2. The state, federal, and local income or excise tax rates used in calculating the proposed RNGRAM and an explanation of the source of and the basis for using those tax rates;**
- 3. The regulatory capital structure used in calculating the proposed RNGRAM and an explanation of the source of and the basis for using the capital structure;**
- 4. The cost rates for debt and preferred stock used in calculating the proposed RNGRAM and an explanation of the source of and the basis for using those rates;**
- 5. The cost of common equity used in calculating the proposed RNGRAM and an explanation of the source of and the basis for that equity cost;**
- 6. The depreciation rates used in calculating the proposed RNGRAM and an explanation of the source of and the basis for using those depreciation rates;**
- 7. The rate base used in calculating the proposed RNGRAM including an updated depreciation reserve total incorporating the impact of all RNG plant investments previously reflected in general rate proceedings or RNGRAM application proceedings initiated following enactment of the RNG rules;**
- 8. The applicable customer class billing methodology used in calculating the proposed RNGRAM and an explanation of the source of and basis for using that methodology;**
- 9. An explanation of how the proposed RNGRAM is allocated among affected customer classes, if applicable;**

10. For purchase of RNG Attributes, the cost of the purchases, and an explanation of the source of the RNG Attributes and the basis for making that specific purchase, including an explanation of the request for proposal (RFP) process, or the reason(s) for not using a RFP process for the purchase; and

11. Evidence that projects developed pursuant to its approved RNG program are operational and capable of delivering RNG to customers.

(B) A gas utility may effectuate a change in its RNGRAM no more often than one (1) time during any calendar year.

(C) Commission approval of proposed rate schedules to establish or modify a RNGRAM shall in no way be binding upon the commission in determining the ratemaking treatment to be applied to RNG program costs during a subsequent general rate proceeding or prudence review when the commission may undertake to review the prudence of such costs. If the commission disallows, during a subsequent general rate proceeding or prudence review, recovery of RNG program costs previously in a RNGRAM, the gas utility shall offset its RNGRAM in the future as necessary to recognize and account for any such costs. The offset amount shall include a calculation of interest at the gas utility's short-term borrowing rate as calculated in paragraph (4)(D)1. of this rule. The RNGRAM offset will be designed to reconcile such disallowed costs or benefits within the six- (6-) month period immediately subsequent to any commission order regarding such disallowance.

(D) Prudence reviews respecting a RNGRAM. A prudence review of the costs subject to the RNGRAM shall be conducted no less frequently than at intervals established in the commission proceeding in which the RNGRAM is established.

1. All amounts ordered refunded by the commission shall include interest at the gas utility's short-term borrowing rate. The interest shall be calculated on a monthly basis for each month the RNGRAM rate is in effect, equal to the weighted average interest rate paid by the gas utility on short-term debt for that calendar month.

2. This rate shall then be applied to a simple average of the same month's beginning and ending cumulative RNGRAM over- or under-collection balance. Each month's accumulated interest shall be included in the RNGRAM over- or under-collection balances on an ongoing basis.

(E) A gas utility that has implemented a RNGRAM shall file revised RNGRAM rate schedules to reset the RNGRAM charge to zero (0) when new base rates and charges become effective following a commission order establishing customer rates in a general rate proceeding that incorporates RNG program costs or benefits previously reflected in a RNGRAM in the utility's base rates. If an over- or under-recovery of RNGRAM revenues or over- or under-pass-through of RNGRAM program benefits exists after the RNGRAM charge has been reset to zero (0) that amount of over- or under-recovery, or over- or under-pass-through, shall be tracked in an account and considered in the next RNGRAM filing of the gas utility.

(F) Upon the inclusion of RNGRAM program costs reflected in a RNGRAM into a gas utility's base rates, the gas utility shall immediately thereafter reconcile any previously unreconciled RNGRAM revenues or RNGRAM benefits and track them as necessary to ensure that revenues or pass-through benefits resulting from the RNGRAM match, as closely as possible, the appropriate pretax revenues or pass-through benefits as found by the commission for that period.

(G) The cost of RNG or hydrogen gas shall not flow through the Purchased Gas Adjustment Clause unless the cost for the RNG or hydrogen gas, including RNG infrastructure, can be obtained on a comparable basis as natural gas purchased at the city gate of the utility. Amounts collected under the RNGRAM will not be collected through the Purchased Gas Adjustment Clause.

(5) Treatment and reporting of RNG Attributes. A gas utility may propose, through the application in section (2) of this rule, to procure, utilize, or sell RNG Attributes as a part of its RNG program provided that:

(A) All attributes are tracked in a commission approved tracking system that ensures that attributes are tracked from creation to retirement and are verified to be only used once; and

(B) All revenues are passed through to customers as provided for in section (4) of this rule or through a general rate proceeding.

(6) Reporting Requirements. Annually, on September 15, a gas utility with an approved RNG program shall report to the commission the following:

(A) A comparison of the total volume of RNG procured over the year compared to its approved RNG program;

(B) To the extent any shortfalls or excess RNG were procured, the gas utility shall describe how it plans to adjust its procurements to match the approved total volume; and

(C) Identification of the qualified investments previously approved through the application in section (2) of this rule that the gas corporation has made operational including all evidence to support that the qualified investments are operational and are capable of delivering gas to customers.

AUTHORITY: sections 386.250, 386.310, 393.140, RSMo 2016; and 386.895, RSMo Supp. 2023.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500.00) in the aggregate.

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, Nancy Dippell, 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 July 17, 2024, and should include a reference to Commission Case No. GX-2024-0326. 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 July 23, 2024, at 10:00 a.m., in Room 310 of the Governor's Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at

this hearing to submit additional comments and/or testimony in support 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.

Small Business Regulatory Fairness Board

Small Business Impact Statement

Date: April 5, 2024

Rule Number: 20 CSR 4240-40.100 Renewable Natural Gas Program

Name of Agency Preparing Statement: Missouri Public Service Commission

Name of Persons Preparing Statement: Scott Stacey and Mark Johnson

Phone Number: 573-522-6279
573-751-7431

Email: scott.stacey@psc.mo.gov
mark.johnson@psc.mo.gov

Name of Persons Approving Statement: Jim Busch, Kim Bolin and Mark Johnson

Please describe the methods your agency considered or used to reduce the impact on small businesses (*examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique*).

This newly proposed rule is being promulgated consistent with Section 386.895, RSMo, which directs the Commission to adopt rules for gas corporations to offer a renewable gas program, and specifically must include reporting requirements and a process for gas corporations to recover incurred costs associated with the renewable gas program that are prudent, just, and reasonable. The rule will be used by gas corporations who want to provide a renewable natural gas program. The costs of the rule itself will be borne by the gas corporations, none of whom are small businesses.

Please explain how your agency has involved small businesses in the development of the proposed rule.

The Commission opened a working case docket, Case No. GW-2022-0060, and provided notification to natural gas corporations. The Commission held a workshop and requested comments after completion of the workshop. Small businesses, while not directly impacted by this rule, were welcome to participate in the workshop.

The Commission received numerous comments from gas corporations and others, which were taken under advisement in developing this rule. Once the proposed rule enters the formal rulemaking process, the Commission will seek additional input through a formal comment period and a rulemaking hearing. Commission proceedings are open to all interested stakeholders, including any small businesses.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

The Commission will need to process applications, if any, that are submitted using this rule. The Office of the Public Counsel (OPC) also participates in cases before the Commission. The costs are limited to the Commission processing the applications and OPC participating in the process, if any applications are filed. No additional fees will be imposed.

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

Gas corporations, none of whom are small businesses, are the only entities who would be required to comply with the rule.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

N/A – Small businesses are not required to comply with this rule.

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Gas corporations, who want to implement renewable natural gas programs, will be directly affected and benefitted by the proposed rule.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes ___ No X

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.