



Missouri Public Service Commission

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Chair

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JOHN P. MITCHELL
Commissioner

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

Re: 20 CSR 4240-2.075 Intervention

Dear Director Schappe,

CERTIFICATION OF ADMINISTRATIVE RULE

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

Statutory Authority: sections *386.410, RSMo*

If there are any questions regarding the content of this order of rulemaking, please contact:

Nancy Dippell, Secretary
Missouri Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8518
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A handwritten signature in black ink that reads "Nancy Dippell".

Nancy Dippell
Secretary to the Commission



Enclosures

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Michael L. Parson

GOVERNOR
STATE OF MISSOURI

June 27, 2024

Ms. Kayla Hahn
Public Service Commission
PO Box 360
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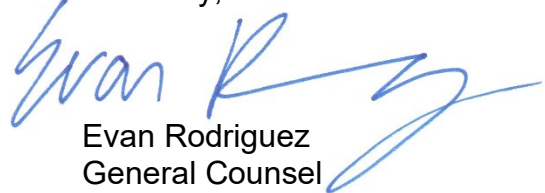
Dear Ms. Hahn:

This Office has received your Final Order of Rulemaking for the following regulations:

- 20 CSR 4240-2.115 Stipulations and Agreements
- 20 CSR 4240-2.075 Intervention

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 2 – Practice and Procedure**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under section 386.410, RSMo 2016, the commission amends a rule as follows:

20 CSR 4240-2.075 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 1, 2024 (49 MoReg 651). Those section with changes is reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended May 31, 2024, and the commission held a public hearing on the proposed amendment on June 4, 2024. The commission received four (4) written comments. Twelve (12) comments were received at the hearing.

COMMENT #1: Emily Wilbur on behalf of the Missouri Department of Natural Resources – Division of Energy (DE) filed written comments opposed to the proposed change requiring all potential intervenors to explain why it takes no position and when it expects to be able to assert a position. DE states that this language could preclude its participation where it may intervene only to provide information on a topic and not to take a position on an issue. DE proposed revising the amendment by deleting the phrase requiring potential intervenors to state when such a position could be asserted.

RESPONSE AND EXPLANATION OF CHANGE: The commission finds the language will not be as restrictive as DE suggests. However, the commission will add language to the subsection (2)(F) so that an entity intervening only to provide or receive information may state that instead of stating when it expects to take a position.

COMMENT #2: Public Counsel Marc Poston on behalf of the Office of the Public Counsel (OPC) filed written comments and John Clizer for OPC provided comments at the hearing. OPC commented that it supports an expansive and lenient application of the rule regarding intervention. OPC suggests the proposed amendment may make intervention more difficult for potential intervenors and, thus, opposes the amendment. OPC urges the commission to use the working group process at the commission before amending these rules.

RESPONSE: The commission finds that the proposed amendment will not create an additional barrier to intervention because it only requires explanation as to why a position cannot be asserted and when the intervenor expects to be able to assert a position. This information will help the commission to determine if allowing the intervention is in the public interest. If an intervenor does not know when it might assert a position, it can state so to comply with this requirement. No change was made as a result of this comment.

COMMENT #3: Sreenivasa Rao Dandamudi on behalf of Spire Missouri Inc. filed written comments and Scott Weitzel for Spire provided comments at the hearing in support of the rule.

RESPONSE: The commission thanks Spire for its comments. No change was made as a result of this comment.

COMMENT #4: John Coffman on behalf of the Consumers Council of Missouri filed written comments and commented at the hearing generally in support of the amendment. Consumers Council states that requiring an intervenor to state its position when it intervenes as well as requiring an intervenor to explain why it cannot state its position are reasonable. Consumers Council asks the commission to continue to be liberal in granting intervention and to keep in mind that many intervenors such as Consumers Council will not know its position until it gets the information from the utilities as the case progresses. Further, those intervenors will not have access to the confidential information until granted intervention. It is Consumers Council's opinion that the commission should hold a "workshop" proceeding before beginning any substantial change to commission rules.

RESPONSE: The commission agrees with Consumers Council that requiring a statement of an intervenor's position up front is reasonable. This information will help the commission to determine if allowing the intervention is in the public interest. No change was made as a result of this comment.

COMMENT #5: Tim Opitz on behalf of the Midwest Energy Consumers Group (MECG) commented and provided written reply comments at the hearing. MECG stated that it had no strong opposition to the proposed amendment. MECG commented that it agrees with the comments of OPC and Consumers Council, and does not oppose the comments of DE.

RESPONSE: The commission thanks MECG for its comments. No change has been made as a result of this comment.

COMMENT #6: Jim Fischer on behalf of Evergy Missouri Metro and Evergy Missouri West (collectively referred to as "Evergy"). Evergy commented that it had no objection to the proposed amendment. Evergy made general comments about the way the commission determines who should be allowed to intervene and encouraged the commission to have a liberal intervention policy.

RESPONSE: The commission thanks Evergy for its comments. No change was made as a result of this comment.

COMMENT #7: James Owen on behalf of Renew Missouri commented at the hearing that Renew Missouri had no opposition to the amendment. Renew Missouri stated that it agreed with the comments of OPC, Consumers Council, and Evergy that the commission should continue to allow liberal intervention.

RESPONSE: The Commission thanks Renew Missouri for its comments. No change was made as a result of this comment.

COMMENT #8: Diana Plescia on behalf of the Missouri Industrial Energy Consumers (MIEC). MIEC commented that because it is an association of large industrial customers and not every member participates in each case, it may take months to fully determine what, if any, specific position one of its members will take in a commission case. Therefore, MIEC encourages the commission to have a liberal intervention policy.

RESPONSE: The commission thanks MIEC for its comments. No change was made as a result of this comment.

COMMENT #9: Bruce Morrison an attorney with the Great Rivers Environmental Law Center commented at the hearing in opposition to the amendment. Mr. Morrison stated that he had concerns the changes may create an unintended barrier to intervention. Mr. Morrison agreed with other commenters that the Commission should have a liberal intervention policy and that not-for-profit entities like those he represents may need additional time to formulate a position.

RESPONSE: The commission finds that the proposed amendment will not create an additional barrier to intervention because it only requires explanation as to why a position cannot be asserted and when the intervenor expects to be able to assert a position. This information will help the commission to determine if allowing the intervention is in the public interest. If an intervenor does not know when it might assert a position, it can state so to comply with this requirement. No change was made as a result of this comment.

COMMENT #10: Dana Gray on behalf of the Tower Grove Community Development Corporation commented at the hearing in opposition to the amendment. Tower Grove stated that it agreed with the comments made at the hearing by Renew Missouri, Consumers Council, and Bruce Morrison.

RESPONSE: The commission finds that the proposed amendment will not create an additional barrier to intervention because it only requires explanation as to why a position cannot be asserted and when the intervenor expects to be able to assert a position. This information will help the commission to determine if allowing the intervention is in the public interest. If an intervenor does not know when it might assert a position, it can state so to comply with this requirement. No change was made as a result of this comment.

COMMENT #11: Terry Jarrett on behalf of the Missouri School Boards Association (MSBA) commented at the hearing in opposition to the amendment. MSBA stated that it agreed with the comments of Consumers Council, Renew Missouri, OPC, MIEC, and Evergy.

RESPONSE: The commission thanks MSBA for its comments. No change was made as a result of this comment.

COMMENT #12: Peggy Whipple on behalf of the Missouri Electric Commission (MEC) commented at the hearing in opposition to the amendment. MEC stated that it agreed with the comments of Consumers Council, Renew Missouri, OPC, MECG, and Evergy.

RESPONSE: The commission thanks MEC for its comments. No change was made as a result of this comment.

COMMENT #13: Scott Stacey with Staff Counsel's Office of the commission commented in support of the amendment. Mr. Stacey commented that the commission has legal authority to make rules governing the proceedings before the commission. Mr. Stacey commented that he does not agree that the amendment would limit intervention in commission cases. Mr. Stacey commented that the amendment would only require more information be provided up front.

RESPONSE: The commission agrees with Mr. Stacey's comments that the proposed amendment will not limit intervention. No change was made as a result of this comment.

20 CSR 4240-2.075 Intervention

(2) A motion to intervene or add new member(s) shall include:

(F) A statement as to whether the proposed intervenor or new member supports or opposes the relief sought, or a statement that the proposed intervenor or new member is unsure of the position it will take with an explanation of why a position cannot be asserted based upon the initial filing(s) and when such position could be asserted or that the intervenor or new member intends to only provide or receive information and will not take a position on the issues.