

# John R. Ashcroft

Secretary of State / Administrative Rules

## RULE TRANSMITTAL

Administrative Rules Stamp

**RECEIVED**

By Administrative Rules SOS at 3:51 pm, Oct 02, 2024

**RECEIVED**

By JCAR at 3:23 pm, Oct 02, 2024

Rule Number 20 CSR 4240-10.185

Use a SEPARATE rule transmittal sheet for EACH individual rulemaking.

Name of person(s) Administrative Rules can contact 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

Email address Kayla.Kliethermes@psc.mo.gov

Interagency mailing address Public Service Commission, 9<sup>th</sup> 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 >  Rule  Amendment  Rescission

Rule Action Notice

In Addition

Rule Under Consideration

Request for Non-Substantive Change

Statement of Actual Cost

Order of Rulemaking >  Withdrawal  Adoption  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/SUBSECTIONS WITH CHANGES:

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## ***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

October 2, 2024

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

### **Re: 20 CSR 4240-10.185 Petitions for Water and Sewer Infrastructure Rate Adjustment**

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 and 393.140, RSMo 2016 and 393.1509, RSMo 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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**JOHN P. MITCHELL**  
Commissioner

October 2, 2024

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

### **Re: 20 CSR 4240-10.185 Petitions for Water and Sewer Infrastructure Rate Adjustment**

Dear Director Schappe,

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Secretary

Enclosures

STATE CAPITOL  
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*Michael L. Parson*

GOVERNOR  
STATE OF MISSOURI

September 27, 2024

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

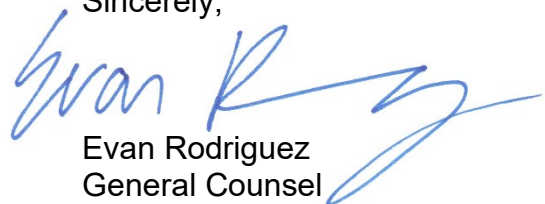
Dear Ms. Hahn:

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

- 20 CSR 4240-10.185 Petitions for Water and Sewer Infrastructure Rate Adjustment

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 10 -- Utilities**

**PROPOSED RULE**

**20 CSR 4240-10.185 Petitions for Water and Sewer Infrastructure Rate Adjustment**

*PURPOSE: This rule sets the requirements and process for water or sewer corporations filing a petition and proposed rate schedule with the commission pertaining to Water and Sewer Infrastructure Rate Adjustments in accordance with sections 393.1500 to 393.1509, RSMo.*

- (1) A water or sewer corporation, as defined in section 386.020, RSMo, providing water or sewer services to more than eight thousand (8,000) customer connections may file a petition and proposed rate schedules with the commission to establish or change a Water and Sewer Infrastructure Rate Adjustment (WSIRA). For the purpose of this rule, eligible water or sewer corporations seeking to establish or change a WSIRA are referred to as eligible utilities.
- (2) An eligible utility may effectuate a change in its WSIRA no more than two (2) times in a twelve (12) month period.
  - (A) The twelve (12) month period restriction starts on the date the commission approved the initial WSIRA.
  - (B) For the purpose of this rule, an initial WSIRA is the first WSIRA granted to the eligible utility or a subsequent WSIRA established after all existing WSIRAs have been reset to zero (0) after a general rate proceeding.
  - (C) Existing WSIRAs are reset to zero (0) following a commission order establishing customer rates in a general proceeding for the eligible utility.
- (3) The commission shall issue an order no later than one hundred eighty (180) days from the receipt of a complete WSIRA petition. To effectuate this requirement, staff of the commission (Staff) may submit a report regarding the examination to the commission no later than ninety (90) days after the petition is filed.
  - (A) The Staff report shall examine the information provided by the eligible utility to confirm that the underlying costs are applicable and appropriate with this rule.
  - (B) No other revenue requirement or ratemaking issues shall be examined in consideration of the petition or associated proposed WSIRA rate schedule.
  - (C) In order to be considered in the Staff report, any updates to the petition must be filed no later than sixty (60) days from the date the petition was filed.



(4) All eligible utilities filing a petition and proposed rate schedule with the commission to establish or change a WSIRA shall implement the following requirements.

(A) Three (3) months prior to filing a petition to establish a WSIRA, the eligible utility shall submit notice to the commission indicating that it will be submitting a petition to establish or change a WSIRA. The notice shall include the eligible utility's most recent five (5) year capital expenditure plan unless such a plan has already been submitted during the previous twelve (12) months from the date of petition submittal.

1. If the five (5) year capital expenditure plan has been submitted and it is determined that revisions are not necessary, the eligible utility shall indicate in the notice there is no change necessary for its existing plan along with the date it was submitted to the commission.
2. If the five (5) year capital expenditure plan has been submitted and determined that minor revisions are necessary, the eligible utility shall provide an itemized revision to the commission.
3. If the five (5) year capital expenditure plan has been submitted and it is determined that significant revisions are necessary, the eligible utility shall provide its most recent revised plan to the commission along with an indication that the plan has been revised.
4. At a minimum, five (5) year capital expenditure plans shall include:
  - A. The total dollar amount related to recurring and developer projects, and a description of each project; and
  - B. The total dollar amount related to investments and a description of each project for each service area in which the utility provides services;

(B) The petition for a WSIRA shall include:

1. All information contained in the requirements of 20 CSR 4240-2.060(1) and (6);
2. The petitioner's number of water or sewer connections;
3. Contact name and information with the eligible utility for communications regarding the petition;
4. Date of last general rate proceeding decided by commission order, if applicable;
5. Date and related case number of most recent five (5) year capital expenditure plan filed with the commission;
6. A description of all information posted on the eligible utility's website regarding the WSIRA and related infrastructure system projects;
7. A description of how the eligible utility will educate and instruct customer service personnel to handle customer questions or concerns regarding the WSIRA; and
8. Calculations and explanation of the source of and basis for:
  - A. State, federal, and local income or excise tax rates used to determine the proposed rates and their relation to the current statutory rates;
  - B. Regulatory capital structure;
  - C. Cost rates for debt and preferred stock;

- D. Cost of common equity;
- E. Property tax rates;
- F. Depreciation rates;
- G. Applicable customer class billing determinants used;
- H. Annual reconciled differences for the recovery of revenues or credits of an effective WSIRA; and
- I. Costs that are eligible for recovery during the period in which the WSIRA will be in effect, including the net original cost of the eligible infrastructure system projects, the amount of the WSIRA costs related to the eligible infrastructure system projects, and a breakdown of the eligible infrastructure projects identified by work order or cost center for each of the following project categories:
  - (I) Replacement of existing water and sewer pipes, and associated valves, hydrants, meters, service lines, laterals, sewer taps, curb stop, and manholes;
  - (II) Cleaning and relining of existing water or sewer pipes;
  - (III) Replacement of lead mains, lead goosenecks, and lead service lines and associated valves and meters;
  - (IV) Replacement of booster station(s) and lift station pump(s) with equipment of similar capacity and operations, as well as related pipes, valves, and meters;
  - (V) Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of this state;
  - (VI) Facilities relocations required due to construction or improvement of a highway road, street, public way, or other public work on or on behalf of a political subdivision of this state, or another entity having the power of eminent domain provided that the cost related to such projects have not been reimbursed to the eligible utility;
  - (VII) Replacement of water or wastewater treatment mechanical equipment with equipment of similar capacity and operation, including well and intake pumps, transfer pumps, and metering pumps; and
  - (VIII) Replacement of Supervisor Control and Data Acquisition System (SCADA) components necessary for the operation and monitoring of remote installations including radio and cellular communication equipment, and programmable logic controllers;

9. Explanation for each of the following:

- A. How customers subject to the proposed WSIRA are benefiting from infrastructure system projects that will be recovered through the proposed WSIRA;
- B. How the proposed WSIRA is being prorated between the affected customer classes, if applicable;
- C. How the proposed WSIRA is being applied in a manner consistent with the customer classes cost-of-service study recognized by the commission in the eligible utility's most recent general rate proceeding, if applicable;
- D. How the proposed WSIRA is being applied consistent with the rate design methodology utilized to develop the eligible utility's rates resulting from its most recent general rate proceeding;
- E. How the infrastructure project associated with the proposed WSIRA does not increase revenues by directly connecting the infrastructure system project to new customers;
- F. Date the infrastructure system project associated with the WSIRA was completed and became used and useful;
- G. Efforts to quantify and seek reimbursement for any costs associated with facility relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state, or another entity having the power of eminent domain, which could offset the requested WSIRA revenues;
- H. If any of the infrastructure system projects associated with the WSIRA were funded through financing arrangements directed specifically to the projects, an explanation of how the projects were funded, including the amount of debt and the interest rate on that debt;
- I. Service time of any infrastructure replaced that were in service when either replaced or abandoned; and
- J. The request for proposal (RFP) process used, or the reasons that a RFP process was not used, to select the entity that performed the infrastructure replacement projects;

(C) Within twenty (20) days after filing of a WSIRA petition, the eligible utility shall file examples of the items listed below with the commission. The eligible utility's examples shall include:

- 1. Explanation of the WSIRA including how it will be implemented to all affected customer classes;
- 2. Explanation of the WSIRA calculations of the rates in relation to the previous billing as percentage or addition to the commodity charge;

3. The statutory authority under which the eligible utility is implementing the WSIRA; and
  4. Surcharge description for monthly bills informing the affected customer of the ongoing WSIRA and amount of the WSIRA on the customer's bill; and
- (D) For requirements listed in this section requiring review or approval by a certified engineer, the item shall be signed, sealed, and dated by a Missouri registered professional engineer.

(5) Upon a WSIRA becoming effective, the eligible utility shall:

(A) Submit notice to all affected customers no later than the customer's first bill after the effective date of WSIRA. The notice shall:

1. Provide a detailed description explaining the eligible utility's water or sewer infrastructure rate adjustment program;
2. Explain how the approved WSIRA is being allocated and how the allocation impacts all affected customers classes;
3. Explain the calculations of the rates in relation to the previous billing as a percentage or an addition to the commodity charge; and
4. Identify the statutory authority under which the eligible utility is implementing the WSIRA;

(B) Submit an annual notice to all affected customers on the anniversary of the approved effective date of the initial WSIRA explaining that the WSIRA is in effect along with an explanation of the continuation of its water or sewer infrastructure system replacement;

(C) A surcharge description on all affected customer bills informing the customers of the existing and ongoing amount of the WSIRA on the bills; and

(D) Eligible utilities collecting WSIRA revenues shall file their updated five (5) year capital expenditure plan with the commission no later than February twenty-eighth (28) of each year. If this date falls on a weekend, then the eligible utility shall submit its plan no later than the last business day prior to the twenty-eighth (28) of February.

1. The five (5) year capital expenditure plan shall include, at a minimum, the following:
  - A. Total dollar amount related to recurring and developer projects along with a description of each project; and
  - B. Total dollar amount related to investments and a description of each project for each service area in which the utility provides services.
2. If the eligible utility knows or believes it will not meet the annual requirement, then the eligible utility shall submit a written announcement within ten (10) business days prior to February twenty-eighth (28) and shall provide:
  - A. Justification for not meeting the requirement;

- B. A proposed extension due date not exceeding thirty (30) days from the initial due date; and
- C. Measures taken to ensure it meets the next annual submittal date.

*AUTHORITY: Original authority: sections 386.250 and 393.140, RSMo 2016 and section 393.1509, RSMo 2023. Filed \_\_\_\_\_, effective \_\_\_\_\_.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500.00) 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 Dec. 15, 2024, and should include a reference to commission File No. OX-2025-0118. 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 Dec. 18, 2024, at 1:00 p.m., in Room 139 of the James C. Kirkpatrick Building, 600 W. Main St., Jefferson City, MO. 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.*