

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

In the Matter of the Proposed Rescission of )  
the Commission’s Rule 20 CSR 4240-50.050 )  
Environmental Cost Adjustment Mechanism )

Case No. WX-2025-0032

**COMMENTS OF THE OFFICE OF THE PUBLIC COUNSEL**

Pursuant to the Public Service Commission of the State of Missouri’s (the “Commission”) *Notice of Hearing and Comment Period* filed in the above styled case on August 1, 2024, the Missouri Office of the Public Counsel (the “OPC”) submits these comments.

Initially, the OPC points out that the statute that creates the Environmental Cost Adjustment Mechanism (“ECAM”) requires the Commission to promulgate a rule “implement[ing] the application process for” the mechanism prior to awarding one. § 386.266.13 RSMo. The OPC opposes the rescission of 20 CSR 4240-50.050 because it contains important procedural requirements beyond those provided in the statute: § 386.266 RSMo.

Section 386.266.2 of the Revised Statutes of Missouri allows, in pertinent part, any water corporation to “make an application to the commission to approve rate schedules authorizing periodic rate adjustments outside of general rate proceedings to reflect increases and decreases in its prudently incurred costs, whether capital or expense, to comply with any federal, state, or local environmental law, regulation, or rule.” § 386.266.2 RSMo. The rate adjustment mechanism created by this language for water utilities has come to be known as the Environmental Cost Adjustment Mechanism or ECAM.

In pertinent part, subsection 13 of the same statute requires the Commission to “have previously promulgated rules to implement the application process for” the ECAM<sup>1</sup> “prior to the commission issuing an order for any such rate adjustment.” § 386.266.13 RSMo.<sup>2</sup>

In approving 20 CSR 4240-50.050 the Commission promulgated the rule contemplated by § 386.266.13 RSMo. for water utilities. The rule itself includes important procedural requirements beyond those provided in the statute. *See, e.g.*, 20 CSR 4240-50.050(2) (describing what must be included in an application to establish or modify an ECAM, including specifying what the Commission must consider “[i]n determining which environmental cost components to include in an ECAM . . . ”); 20 CSR 4240-50.050(5) (providing the process to follow to true-up an ECAM); 20 CSR 4240-50.050(7) (explaining the process to follow to complete a prudence review of an ECAM). These procedural requirements provide uniform processes for interested parties and the Commission to follow with respect to an ECAM. Therefore, without this rule not only would the Commission lack authority to authorize an ECAM, § 386.266.13 RSMo., but no clear authority would exist to specify, for instance, what a requesting water utility must file to obtain an ECAM or what process parties and the Commission should follow to complete necessary reviews such as

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<sup>1</sup> This subsection provides in full:

The provisions of subsections 1 to 3 of this section shall take effect on January 1, 2006, and the commission shall have previously promulgated rules to implement the application process for any rate adjustment mechanism under subsections 1 to 3 of this section prior to the commission issuing an order for any such rate adjustment.

§ 386.266.13 RSMo. Subsection 2 of § 386.266 RSMo. creates the ECAM. Therefore, subsection 13 requires the Commission to promulgate rules prior to awarding any electric, gas, or water corporation an ECAM. §§ 386.266.2, .13 RSMo.

<sup>2</sup> The OPC notes that § 386.266.2 RSMo. applies to “any electrical, gas, or water corporation . . . ” § 386.266.2 RSMo. The Commission has also promulgated rules pertaining to an electrical corporation’s request for a mechanism under this statute: 20 CSR 4240-3.162 (entitled “Electric Utility Environmental Cost Recovery Mechanisms Filing and Submission Requirements”) and 20 CSR 4240-20.091 (entitled “Electric Utility Environmental Cost Recovery Mechanisms”). The OPC is not aware of any rule governing a gas corporation’s request for this type of mechanism.

annual true-ups<sup>3</sup> and prudence reviews.<sup>4</sup> Because 20 CSR 4240-50.050 contains important procedural requirements beyond those contained in § 386.266 RSMo., the OPC opposes rescission of the Rule.

WHEREFORE, the OPC respectfully requests that the Commission consider these comments and not rescind 20 CSR 4240-50.050 for the reasons addressed above.

Respectfully submitted,

/s/ Lindsay VanGerpen  
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### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the forgoing have been mailed, emailed, or hand-delivered to all counsel of record this 3rd day of October 2024.

/s/ Lindsay VanGerpen

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<sup>3</sup> The OPC notes that § 386.266.5(2) RSMo. requires annual true-ups for an ECAM.

<sup>4</sup> In addition to annual true-ups, § 386.266.5(4) RSMo. requires prudence reviews “no less frequently than at eighteen-month intervals” for, in part, any ECAM. § 386.266.5(4) RSMo.