amended. Staff further noted that section 386.250, RSMo, refers to "the manufacture, sale or distribution of gas, natural and artificial," and the commission's pipeline safety standards in 20 CSR 4240-40.030 address safety requirements for pipelines transporting manufactured gas. Staff also explained the historical context of the term.
RESPONSE: The commission has reviewed the comments and agrees with staff that no amendment is necessary. No change was made as a result of these comments.

TITLE 20 – DEPARTMENT OF COMMERCE AND INSURANCE
Division 4240 – Public Service Commission
Chapter 40 – Gas Utilities and Gas Safety Standards

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.250, 386.310, and 393.140, RSMo 2016, and section 386.895, RSMo Supp. 2024, the commission adopts a rule as follows:

20 CSR 4240-40.100 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on June 17, 2024 (49 MoReg 909-911). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended July 17, 2024, and the commission held a public hearing on the proposed rule on July 23, 2024. The commission received five (5) written comments from parties during the comment period and (4) parties commented at the hearing. The comments were generally in support of the proposed rule with a few suggested changes.

COMMENT #1**:** Goldie Bockstruck, Director, Regulatory Affairs, submitted written comments on behalf of Summit Natural Gas of Missouri, Inc. (SNGMO). SNGMO suggested paragraph (1)(C)2. should be amended because it excludes other hydrogen production methods. SNGMO proposes a broader definition be used that would be inclusive of other methods of hydrogen production. Tim Johnston, Vice President, Roeslein Alternative Energy Service, LLC (RAES) and attorney for RAES, Dean Cooper, commented at the hearing that RAES would like to see the definition of renewable hydrogen expanded to include hydrogen produced by steam reformation of renewable natural gas (RNG). At the hearing, Scott Stacey, Deputy Counsel, on behalf of the staff of the commission (staff) submitted additional written comments stating that this change was unnecessary. Staff stated that as additional renewable hydrogen production methods become feasible, any party may propose a modification to the rule.

John Clizer, Senior Counsel, on behalf of the Office of the Public Counsel, commented at the hearing that Public Counsel opposed broadening the definition to allow nonrenewable sources of hydrogen to be included in the renewable natural gas program. Public Counsel objected to the change for two reasons. First, Public Counsel argued the change would allow hydrogen produced through the steam reformation of methane to be called renewable even though this is not a renewable process. Second, Public Counsel objected to SNGMO's proposal because it would create an ambiguity of when hydrogen is considered renewable, allowing hydrogen from any source to be considered renewable unless the hydrogen was mixed with biogas, at which point it would have to come from a renewable source to be considered a renewable natural gas.
RESPONSE: The commission agrees with staff and Public Counsel and finds the definition should not be broadened. The commission may decide to amend the rule in the future if additional hydrogen production methods become feasible. No change was made as a result of these comments.

COMMENT #2: SNGMO submitted a written comment that the definition of Renewable Natural Gas Rate Adjustment Mechanism (RNGRAM) in subsection (1)(D) did not set the frequency of the periodic adjustments of the RNGRAM. SNGMO recommended an annual filing that would include a review of the rate adjustments. Public Counsel commented in writing and at the hearing that prudence reviews should be conducted no less than once a year, unless the commission orders otherwise, and that the proposed rule already restricts the prudence reviews to once per year. Public Counsel also explained at the hearing the various scenarios in which the commission might conduct a prudence review and the possible need to include a prudence review when considering a certificate of convenience and necessity. Staff explained that being allowed to determine on a case-by-case basis the timelines for prudence reviews gives staff the flexibility to stagger gas corporation prudence reviews. Staff commented at the hearing that it is not opposed to Public Counsel's modification.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the commenters that a period should be established for prudence reviews. However, the commission also agrees with staff that flexibility will allow staff to balance its workload while still ensuring prudence reviews happen in a timely fashion. Allowing staff to determine on a case-by-case basis when prudence reviews will take place allows staff needed flexibility to stagger those prudence reviews to better accommodate its workload. Therefore, the commission will amend subsection (4)(D) to add that prudence reviews shall be conducted at least once per year unless the commission orders otherwise during the proceeding where a RNGRAM is established.

COMMENT #3: Ted Christensen filed written comments regarding subsection (1)(D) stating that the commission should consider allowing costs for gas distribution operators for specialized full-time technicians to maintain the Btus, Moisture, SCADA, and other analytical equipment necessary to ensure gas is within contract specifications. Staff responded at the hearing that specific cost types would be considered by the commission in the application for a RNGRAM.
RESPONSE: The commission agrees with staff that it will consider specific cost types as part of the application for a RNGRAM. Thus, no change is made as a result of this comment.

COMMENT #4: Ted Christensen commented with regard to

subsection (2)(D) that odorization facilities may need to be installed or odorization control considered. Additionally, with regard to subsection (2)(G) Christensen commented about preventing low quality gas from entering the distribution system. Christensen commented that hydrogen has a much lower Btu content than fossil natural gas; thus, he believes blending should be limited to no more than ten percent (10%) hydrogen. Christensen also reported that the American Gas Association has yet to make an official recommendation. Staff responded at the hearing stating the pipeline safety standards in 20 CSR 4240-40.030 apply to the transportation of gas by pipeline. Staff noted that "gas" is defined in the rule as natural gas, flammable gas, manufactured gas, or gas which is toxic or corrosive. Both hydrogen and RNG are flammable gases and, therefore, required to be odorized in accordance with the requirements of 20 CSR 4240-40.030(12)(P). Staff also noted that gas quality standards are addressed in 20 CSR 4240-10.030(10).
RESPONSE: As indicated by staff, pipeline safety and gas quality standards, including odorization, are required elsewhere in the regulations and the commission does not have sufficient information, especially considering the American Gas Association reportedly has not made a recommendation regarding blending hydrogen, to make any change specifically related to Christensen's comment. The commission makes no change as a result of these comments.

COMMENT #5: Ted Christensen submitted a written comment stating that RNG interconnection standards should be developed by the commission in conjunction with gas operating companies. Staff responded at the hearing that the proposed rule requires the utility to apply for a certificate of convenience and necessity (CCN) for each RNG infrastructure and must meet the quality standards set forth in 20 CSR 4240-10.030. Staff indicated that the standards proposed in the rule are based on its review of the quality standards within the tariffs of the Federal Energy Regulatory Commission (FERC) regulated interstate pipelines providing natural gas to Missouri natural gas distribution systems.
RESPONSE: The commission agrees with staff that gas quality standards are addressed in the proposed amendments to 20 CSR 4240-10.030. The commission has not made any changes to the proposed rule as a result of these comments.

COMMENT #6: Public Counsel recommended in written comments that having the cost of gas purchased under a renewable natural gas program possibly recovered through an RNGRAM would substantially complicate the purchased gas adjustment (PGA) and could potentially risk double recovery by a gas corporation. Public Counsel suggested modifying the language related to the RNGRAM to more clearly reflect what costs are to be recovered through it. Eric Bouselli on behalf of Spire Missouri Inc. also commented at the hearing indicating Spire opposed limiting the costs to capital costs, depreciation expense, and applicable taxes, as there would be additional operating costs for facilities that would also be recoverable. Public Counsel responded at the hearing that section 386.895, RSMo, specifically limits recovery to capital investments. Public Counsel pointed out that the operation and maintenance costs would ultimately be recoverable in a general rate case. Staff stated at the hearing that it was not opposed to Public Counsel's request to modify section (4) of the rule to avoid potential double recovery under the RNGRAM and the PGA.
RESPONSE AND EXPLANATION OF CHANGE: To prevent possible double recovery, the commission will modify the proposed rule to reflect that the costs to be recovered are capital costs, depreciation expense, and applicable taxes. The commission is amending subsection (1)(D) and section (4).

COMMENT #7: Spire requested clarification of section (2). Spire requested the commission clarify its position with regard to when a CCN would be required. Spire noted that requiring an additional CCN for RNG infrastructure constructed in already certificated areas would present an unnecessary hurdle for RNG development. Public Counsel commented at the hearing that it believes building a gas generating facility would be analogous to the legal precedent requiring an electric utility to get a CCN when building an electric generating facility. Spire commented at the hearing that it echoed Public Counsel's thoughts that the CCN requirement should be limited to production-type assets instead of interconnect-type investment. Staff responded at the hearing that the proposed rule requires the utility to apply for a CCN for each RNG infrastructure.
RESPONSE: The commission agrees with staff and finds that the rule does not need further clarification. Thus, no changes were made as a result of these comments.

COMMENT #8: SNGMO in its written comments requested clarification of subsection (2)(D), stating the subsection is not clear as to what information natural gas utilities are required to provide to the commission. Spire made a similar comment. Staff explained at the hearing that the proposed language is intended to seek information about the seasonality or timing of production of renewable natural gas versus its usage by customers.
RESPONSE: Clarification was provided at the hearing. No specific changes to the rule have been proposed and the commission finds that staff's clarification is sufficient explanation of what kind of information the commission seeks in subsection (2)(D). Therefore, no change was made as a result of these comments.

COMMENT #9: Spire commented that subsection (2)(I) should be expanded to also include state-regulated credit and voluntary credit programs, where appropriate. Spire made similar written comments. Public Counsel and RAES responded at the hearing with support for the change. Staff responded at the hearing stating that the change was not necessary because the language as proposed was broad enough for commission consideration during an application for approval of a program. However, staff suggested alternative language that those present at the hearing agreed should be adopted.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff that the alternative language is a reasonable change to the text of the rule but that RAES's proposed change is unnecessary due to the broad nature of rule language as originally proposed by the commission. Therefore, the commission will adopt staff's suggested alternative language in subsection (2)(I).

COMMENT #10: SNGMO filed a written comment with regard

to paragraph (2)(K)11. stating that an estimated cost may not be available for all years, depending on the estimated project life and, therefore, a five (5) to ten (10) year projection was recommended to balance short-term and long-term financial planning, initial program phases, and assess the long-term sustainability and cost-effectiveness of proposed projects. Staff responded at the hearing that any reasonable cost-benefit analysis will consider costs and benefits over the same time period. Staff explained that a cost-benefit analysis over the life of a facility needs to incorporate operations, maintenance, replacements of parts as facilities age, etc. Staff further noted that recovery of the investment will occur over the life of the facilities. Thus, staff stated a cost-benefit analysis should cover the same period.

RESPONSE: For the reasons set out by staff, the commission agrees that no change is needed. Therefore, no change was made as a result of these comments.

COMMENT #11: Spire filed a written comment suggesting that paragraph (2)(K)11. should be changed. Spire stated that when performing a cost-benefit analysis of RNG projects brought before it, the commission should consider factors other than lowest cost. Staff responded at the hearing that the rule as proposed does not prevent a gas corporation from providing support for the inclusion of reasonably estimated benefits in a cost-benefit analysis.

RESPONSE: As explained by staff, the commission does not believe that a change to paragraph (2)(K)11. is necessary. Therefore, no change was made as a result of these comments.

COMMENT #12: SNGMO commented that clarification was needed for subsection (3)(B) to provide clarity on essential components and considerations to be included in the feasibility analysis. SNGMO also requested clarification as to the rationale for requiring the information in subsection (3)(E). Staff responded with clarification that a feasibility analysis should cover market demand, technical feasibility, financial viability, and operational capabilities. Public Counsel provided an explanation of the differences in hydrogen and natural gas chemically, their differing heat content, and how these fuels would react differently in appliances. Public Counsel also discussed hydrogen embrittlement. Staff also provided clarification at the hearing that this provision is intended to obtain information needed to accurately identify gas composition to ensure accurate billing and tracking of gas heat content.

RESPONSE: The commission agrees with staff's clarifications and no changes are needed as a result of these comments.

COMMENT #13: SNGMO commented that clarification was needed with regard to paragraph (4)(A)11. SNGMO stated that the commission should provide clarification on what constitutes "evidence" to determine whether a project is operational and producing RNG or hydrogen. Staff commented at the hearing that evidence may include items such as as-built drawings, engineering reports, and operating permits from applicable governmental entities.

RESPONSE: Staff has clarified this provision and therefore no changes are needed as a result of these comments.

COMMENT #14: SNGMO commented that the proposed rule classifies hydrogen as RNG but distinguishes it in other provisions. Despite the molecular differences between RNG and hydrogen, SNGMO says it makes sense to have consistent criteria for approving projects. SNGMO believes the proposed rulemaking would benefit from greater consistency in the treatment of RNG and hydrogen projects. SNGMO recommended that innovative resources, including RNG and hydrogen, adhere to the same application requirements for project approval. Staff responded at the hearing that RNG that is primarily composed of methane is more chemically and physically similar to natural gas than is hydrogen. Staff stated it anticipates methane-based RNG meeting the quality standards proposed in 20 CSR 4240-10.030 could either be blended with or substituted in large proportions for natural gas without harm to the pipelines or connected customer equipment. Staff further explained that this is not the case with hydrogen due to physical and chemical differences between hydrogen and natural gas. Staff stated that the limits will need to be determined for the amount of hydrogen that can be safely blended with a natural gas stream to allow safe use in customer equipment. This will need to be on a case-by-case basis as it is not yet clear whether or not natural gas that has already been blended with some amount of hydrogen may be delivered to the gas distribution systems on the FERC regulated interstate natural gas pipelines.

RESPONSE: The commission agrees with staff and finds that these items will need to happen on a case-by case basis. Thus, no change was made as a result of these comments.

COMMENT #15: Spire commented that if the commission intends to utilize the cost of capital from the most recent rate case, Spire suggests adding language to clarify that point in paragraphs (4)(A)3. to (4)(A)5. Public Counsel responded at the hearing that this change was unnecessary. Staff stated at the hearing that it recommends using the most current cost of capital established in the most recent general rate case as this is what is used in other rate-making mechanisms outside a general rate case, such as an infrastructure system replacement surcharge (ISRS).

RESPONSE: Staff clarified that it recommends using the cost of capital from the most recent rate case as proposed in Spire's suggested language amendment. However, the commission does not find sufficient reason based on this minimal discussion to make a change in the proposed rule text. No changes were made as a result of this comment.

COMMENT #16: Spire requested clarification on whether the commission has an expectation that certain customer classes be included or excluded from an RNGRAM, or whether the language would require applicants to identify if a methodology other than that used in the gas utility's last rate case was utilized. Public Counsel commented at the hearing that no clarification was needed. Staff responded with clarification that applicants should identify if a methodology other than that used in the gas utility's last rate case was utilized.

RESPONSE: The commission agrees with staff's clarification and no changes were made as a result of these comments.

COMMENT #17: Spire commented that a change should be made to subsection (4)(C) to add the word "disallowed" because the current proposal conflicts with other similar

provisions such as the ISRS rule at 20 CSR 4240-3.265(15). Spire also stated that the proposed disallowances in rate case proceedings or prudence reviews of RNG investments should be rigorously analyzed by the commission, especially when evidence of prudence may have already been provided in not one, but two prior proceedings. Staff stated at the hearing that it supported the language modification. Public Counsel also agreed with Spire that there may be a conflict in the language of the regulations. Spire requested that proposed disallowances in rate case proceedings or prudence reviews of RNG investments be rigorously analyzed by the commission, especially when evidence of prudence may have already been provided in not one but two prior proceedings.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees that subsection (4)(C) should be changed by adding the word "disallowed." Therefore, the commission will change subsection (4)(C). The commission also thanks Spire for its other comments and notes that it currently rigorously analyzes proposed disallowances in prudence reviews and rate case proceedings.

COMMENT #18: Spire commented that a definitive rate such as prime rate minus two (2) at the beginning of the month should replace the existing rate definition used. Spire explained that this rate is used by it for other regulatory balances, such as in the PGA. Spire further noted that it is an easy and understandable rate that is readily available, which would limit any contention over this value. Staff and the other parties in attendance at the hearing did not specifically oppose the change. However, Public Counsel commented at the hearing that using a more specific rate would reflect the actual short-term debt rate of utilities rather than using the prime rate plus or minus a number of points.
RESPONSE: After consideration of the proposed change and other comments, especially considering what may occur if the existing rate definition were changed, the commission is concerned that changing the definition could result in the companies receiving a higher interest rate than the interest rate they are incurring. The commission determines that no change to the language is warranted at this time.

COMMENT #19: Spire requested clarification of the term "comparable basis" in subsection (4)(G). Staff responded at the hearing that only the cost of molecules should be recovered in the PGA and any premium for renewable natural gas attributes should be considered in the RNGRAM. Further, staff noted that evaluation of cost and gas quality would need to be performed.
RESPONSE: For clarification, "comparable basis" means the RNG or hydrogen gas cost, quality, and heat content (MMBtu) is comparable to traditional fossil fuel natural gas purchased by the local distribution company (LDC). No change was made as a result of these comments.

COMMENT #20: Spire commented that additional language should be added in consideration of how RNG attributes are handled. Spire also suggested that in the event that the utilities optimized the purchase and sale of RNG attributes associated with an RNG program, Spire proposed that this transaction flow through the utilities' existing Purchased Gas Cost Adjustment Gas Cost Incentive Mechanism similar to other off-system sale transactions. Staff responded at the hearing that it is opposed to RNG transactions flowing through the PGA and that only costs associated with molecules should be recovered through the PGA. Public Counsel agreed that only the cost of the actual molecules of renewable natural gas should flow through the PGA. Staff suggested some alternative language that was not opposed by those in attendance at the comment hearing.
RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with staff that RNG transactions should not flow through the PGA. The commission will adopt staff's alternative language and change subsection (5)(B) accordingly.

COMMENT #21: Spire commented that the commission should add the length of time from when a filing is made to when a commission order is issued similar to ISRS cases to provide certainty for RNG developers and utilities making investments in RNG infrastructure**.** Public Counsel commented at the hearing that it strongly recommends the commission not apply a time frame to a commission decision in the RNGRAM as the complexity of individual cases may require more time than others to fully hear and determine. Staff responded at the hearing that there is no statutory time frame for a commission decision for this program. Staff noted that at this time the type of RNG programs and projects being discussed vary greatly in complexity. Thus, it is difficult to propose a timeline for staff to complete its investigations and provide sound recommendations to the commission.
RESPONSE: The commission agrees with staff. Considering the proposed rule language is broad and allows gas corporations to propose a variety of programs, using a variety of possible attributes, flexibility on the timeline for commission decision is reasonable. No change was made as a result of this comment.

20 CSR 4240-40.100 Renewable Natural Gas Program

(1) Definitions.

(D) Renewable natural gas rate adjustment mechanism (RNGRAM) means a mechanism that allows periodic adjustments to recover prudently incurred capital costs, depreciation expense, and applicable taxes and pass-through of benefits of any savings achieved in implementing an approved RNG program.

(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:

(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 capital costs, depreciation expense, and applicable taxes 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.

(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 disallowed 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 once a year, unless the commission orders otherwise during a 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.

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