

TITLE 20 – DEPARTMENT OF COMMERCE AND INSURANCE
Division 4240 – Public Service Commission
Chapter 10 –Utilities

COMMENTS AND STAFF RESPONSES

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 15, 2024 (49 MoReg 1717-1719). The section with changes is 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 December 15, 2024, and the commission will hold a public hearing on the proposed amendment on December 18, 2024. The commission received two (2) written comments from parties during the comment period. The comments were generally in support of the proposed rule with a few suggested changes.

COMMENT # 1: Anna Martin, Associate Counsel, on behalf of the Office of the Public Counsel (OPC), submitted written comments. Ms. Martin commented that OPC is supportive of the proposed rule, 20 CSR 4240-10.185, but suggested one addition to subsection (3) of the proposed rule as follows:

(3) The commission shall issue an order to become effective 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.

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates OPC’s participation in the rulemaking process and agrees with the OPC’s suggestion of adding “to become effective” in subsection (3).

COMMENT # 2: Brian LaGrand submitted written comments on behalf of Missouri American Water Company (“MAWC”). MAWC is generally supportive of the proposed rule, but had several suggested changes as noted in its Appendix A. These changes are broken down in separate paragraphs below:

(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 effective date of WSIRA rate schedules resulting from 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; and

(C) Existing WSIRAs are reset to zero (0) on the effective date of rate schedules resulting from following a Commission order establishing customer rates in a general rate proceeding for the eligible utility.

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates MAWC's participation in the rulemaking process and agrees with the MAWC's suggestion of adding the language specified above in subsections (2)(A) and (C).

(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 consistent~~ with this rule.

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates MAWC's participation in the rulemaking process and agrees with the MAWC's suggestion of removing and adding portions to and from subsection (3)(A).

MAWC suggested a change in subsection (4)(B)8.I.(VII) as follows:

(VII) Replacement of water or wastewater treatment mechanical equipment with equipment of similar capacity and operation, including well and intake pumps, transfer pumps, high service or discharge pumps, and metering pumps; and

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates MAWC's participation in the rulemaking process and agrees with the MAWC's suggestion of adding "high service or discharge pumps" to subsection (4)(B)8.I.(VII).

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 Whether~~ the infrastructure project associated with the proposed WSIRA is intended solely for customer growth~~does not increase revenues by directly connecting the infrastructure system project to new customers;~~

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates MAWC's participation in the rulemaking process and agrees with the MAWC's suggestion of adding the language set forth in subsection (4)(B)9.E.

(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.

(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; and

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

(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 notice~~ within ten (10) business days prior to February twenty-eighth (28) and shall provide:

RESPONSE AND EXPLANATION OF CHANGE: Staff appreciates MAWC's participation in the rulemaking process and agrees with the MAWC's statement that the previous (4)(D) was unclear, and proposes this be removed. Staff further agrees to the language addition and removal in subsection (5)(D)2.