

**U**nder this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

**E**ntirely new rules are printed without any special symbolology under the heading of proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

**A**n important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

**I**f an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

**A**n agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety- (90-) day-count necessary for the filing of the order of rulemaking.

**I**f an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 3—Filing and Reporting Requirements

### PROPOSED RESCISSION

**4 CSR 240-3.105 Filing Requirements for Electric Utility Applications for Certificates of Convenience and Necessity.** Applications to the commission requested that the commission grant a certificate of convenience and necessity must have met the requirements of this rule. As noted in the rule, additional requirements pertaining to such applications were set forth in 4 CSR 240-2.060(1).

*PURPOSE: This rule is being rescinded in its entirety because it has been revised and moved to 4 CSR 240-20.045.*

*AUTHORITY: section 386.250, RSMo 2000. Original rule filed Aug.*

*16, 2002, effective April 30, 2003. Rescinded: Filed April 5, 2018.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** *Anyone may file a statement in support of or in opposition to this proposed rescission with the Missouri Public Service Commission, Morris L. Woodruff, Secretary of the Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received at the commission's offices on or before June 14, 2018, and should include a reference to Commission Case No. EX-2018-0189. 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 is scheduled for June 19, 2018, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rescission, and may be asked to respond to commission questions.*

**SPECIAL NEEDS:** *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.*

## Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT Division 240—Public Service Commission Chapter 20—Electric Utilities

### PROPOSED RULE

**4 CSR 240-20.045 Filing Requirements for Electric Utility Applications for Certificates of Convenience and Necessity**

*PURPOSE: This proposed rule outlines the requirements for applications to the commission, pursuant to section 393.170, RSMo, requesting that the commission grant a certificate of convenience and necessity to an electric utility for a service area or to acquire or to construct an electric generating plant, a substation, an electric transmission line, or a gas transmission line that facilitates the operation of an electric generating plant.*

(1) Definitions. As used in this rule, the following terms mean:

(A) Acquire or acquisition means full or partial ownership by purchase or capital lease;

(B) Asset includes electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant regardless of whether the item(s) to be acquired/constructed is located inside the electric utility's certificated service area or is located outside the electric utility's certificated service area but will be used to serve Missouri customers and paid for by Missouri retail ratepayers;

(C) Construction includes:

1. Construction of new asset(s);

2. Construction of a new electric transmission line or a rebuild of a transmission line that will result in a significant increase in the capacity of the transmission line, or a change in the route or easements;



3. Construction of a new substation or a rebuild of the substation that will result in a significant increase in the capacity and/or size of the substation;

4. Construction of a new gas transmission line that facilitates the operation of an electric generating plant or a rebuild of a gas transmission line that will result in a significant increase in the capacity of the gas transmission line that facilitates the operation of an electric generating plant, or a change in the route or easements of the gas transmission line; and

5. Improvement or retrofit of an electric generating plant that will result in—

A. A substantial increase in the capacity of an electric generating plant beyond the planned capacity of the plant at the time the commission granted the prior certificate of convenience and necessity for the electric generating plant;

B. A material change in the discharges, emissions, or other environmental by-products of the electric generating plant than those projected at the time the prior certificate of convenience and necessity was granted by the commission for the electric generating plant;

C. An increase in the useful life of an existing electric generating plant; or

D. A ten percent (10%) increase in rate base; and

(D) Construction does not include:

1. Construction of a new electric transmission line or a new gas transmission line that facilitates the operation of electric generating plant if the line to be constructed is in the electric utility's Missouri certified service area;

2. Periodic, routine, or preventative maintenance or replacement of failed or near term projected failure of equipment or devices with the same or substantially similar items that are intended to restore the electric generating plant or substation to an operational state at or near a recently rated capacity level; or

3. Transmission projects where the only relationship to Missouri ratepayers is through the regional transmission organization/independent system operator cost allocation process.

(2) In addition to the general requirements of 4 CSR 240-2.060(1), the following additional general requirements apply to all applications for a certificate of convenience and necessity, pursuant to section 393.170, RSMo:

(A) The application shall include facts showing that granting the application is necessary or convenient for the public service;

(B) If an asset to be acquired or constructed is outside Missouri, the application shall include plans for allocating costs, other than regional transmission organization/independent system operator cost sharing, to the applicable jurisdiction;

(C) If any of the items required under this rule are unavailable at the time the application is filed, the unavailable items may be filed prior to the granting of authority by the commission, or the commission may grant the certificate subject to the condition that the unavailable items be filed before authority under the certificate is exercised;

(D) The commission may, by its order, impose upon the issuance of a certificate of convenience and necessity such condition or conditions as it may deem reasonable and necessary; and

(E) In determining whether to grant a Certificate of Convenience and Necessity, the commission may, by its order, make a determination on the prudence of the decision to acquire or construct an electric generating plant, a substation, an electric transmission line, or a gas transmission line that facilitates the operation of electric generating plant subject to the commission's post-construction review of the project.

(3) If the application is for authorization to provide electric service to retail customers in a service area for the electric utility, the application shall also include:

(A) A list of those entities providing regulated or nonregulated retail electric service in all or any part of the service area proposed,

including a map that identifies where each entity is providing retail electric service within the area proposed;

(B) If there are ten (10) or more residents or landowners, the name and address of no fewer than ten (10) persons residing in the proposed service area or of no fewer than ten (10) landowners, in the event there are no residences in the area, or, if there are fewer than ten (10) residents or landowners, the name and address of all residents and landowners;

(C) The legal description of the service area to be certificated;

(D) A plat of the proposed service area drawn to a scale of one-half inch (1/2") to the mile on maps comparable to county highway maps issued by the state's Department of Transportation or a plat drawn to a scale of two thousand feet (2,000') to the inch; and

(E) A feasibility study containing plans and specifications for the utility system and estimated cost of the construction of the utility system during the first three (3) years of construction, plans for financing, proposed rates and charges, and an estimate of the number of customers, revenues, and expenses during the first three (3) years of operations.

(4) If the application is for authorization to acquire assets, the application shall also include:

(A) A description of the asset(s) to be acquired;

(B) The value of the asset(s) to be acquired;

(C) The purchase price and plans for financing the acquisition; and

(D) Plans and specifications for the utility system, including as-built drawings.

(5) If the application is for authorization to construct assets, the application shall include:

(A) A description of the proposed route or site of construction;

(B) A list of all electric, gas, and telephone conduit, wires, cables, and lines of regulated and nonregulated utilities, railroad tracks, and each underground facility, as defined in section 319.015, RSMo, which the proposed construction will cross;

(C) A description of the plans, specifications, and estimated costs for the complete scope of the construction project that also clearly identifies what will be the operational features of the electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant once it is fully operational and used for service;

(D) The projected beginning of construction date and the anticipated fully operational and used for service date of each electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant for which applicant is seeking the certificate of convenience and necessity;

(E) An indication of whether the construction project for which the certificate of convenience and necessity is being sought will include common electric generating plant, or common gas transmission plant that facilitates the operation of electric generating plant, and if so, the nature of the common plant;

(F) Plans for financing the construction of the electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant;

(G) For non-incumbent electric providers, an overview of plans for operating and maintaining the electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant;

(H) For non-incumbent electric providers, an overview of plans for restoration of safe and adequate service after significant, unplanned/forced outages of the electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant;

(I) Evidence that the electric utility utilized a non-discriminatory, fair, and reasonable process to evaluate whether distributed energy resources, energy efficiency, or renewable energy resources would provide a reasonable alternative to the construction proposed;



(J) Evidence that the electric utility utilized a non-discriminatory, fair, and reasonable competitive bidding process to evaluate whether purchased power capacity or suppliers of alternative energy would be a reasonable resource in lieu of the construction proposed; and

(K) Evidence that the electric utility utilized or will utilize a non-discriminatory, fair, and reasonable competitive bidding process for entering into contracts for the design, engineering, procurement, construction management, and construction of the electric generating plant, substation, or gas transmission line that facilitates the operation of electric generating plant.

(6) If the application is for authorization to acquire or construct an electric transmission line, the application shall also include:

(A) A description of the proposed route or site of construction;

(B) A list of all electric, gas, and telephone conduit, wires, cables, and lines of regulated and nonregulated utilities, railroad tracks, and each underground facility, as defined in section 319.015, RSMo, which the proposed construction will cross;

(C) A description of the plans, specifications, and estimated costs for the complete scope of the construction project that also clearly identifies what will be the operational features of the electric transmission line once it is fully operational and used for service;

(D) The projected beginning of construction date and the anticipated fully operational and used for service date of the electric transmission line;

(E) An indication of whether the construction project for which the certificate of convenience and necessity is being sought will include a common electric transmission line(s);

(F) Plans for financing the construction of the electric transmission line;

(G) For non-incumbent electric providers, an overview of plans for operating and maintaining the electric transmission line;

(H) For non-incumbent electric providers, an overview of plans for restoration of safe and adequate service after significant, unplanned/forced outages of the electric transmission line;

(I) Evidence that the electric utility utilized or will utilize a non-discriminatory, fair, and reasonable competitive bidding process for entering into contracts for the design, engineering, procurement, construction management, and construction of the electric transmission line; and

(J) An affidavit or other verified certification of compliance with the following notice requirements to landowners directly affected by electric transmission line routes or substation locations proposed by the application. The proof of compliance shall include a list of all directly affected landowners to whom notice was sent.

1. Applicant shall provide notice of its application to the owners of land, or their designee, as stated in the records of the county assessor's office, on a date not more than sixty (60) days prior to the date the notice is sent, who would be directly affected by the requested certificate, including the preferred route or location, as applicable, and any known alternative route or location of the proposed facilities. For purposes of this notice, land is directly affected if a permanent easement or other permanent property interest would be obtained over all or any portion of the land or if the land contains a habitable structure that would be within three hundred (300) feet of the centerline of an electric transmission line.

2. Any letter sent by applicant shall be on its representative's letterhead or on the letterhead of the utility, and it shall clearly set forth—

A. The identity, address, and telephone number of the utility representative;

B. The identity of the utility attempting to acquire the certificate;

C. The general purpose of the proposed project;

D. The type of facility to be constructed; and

E. The contact information of the Public Service Commission and Office of the Public Counsel.

3. If twenty-five (25) or more persons in a county would be

entitled to receive notice of the application, applicant shall hold at least one (1) public meeting in that county. The meeting shall be held in a building open to the public and sufficient in size to accommodate the number of persons in the county entitled to receive notice of the application. Additionally—

A. All persons entitled to notice of the application shall be afforded a reasonable amount of time to pose questions or to state their concerns;

B. To the extent reasonably practicable, the public meeting shall be held at a time that allows affected landowners an opportunity to attend; and

C. Notice of the public meeting shall be sent to any persons entitled to receive notice of the application.

4. If applicant, after filing proof of compliance, becomes aware of a person entitled to receive notice of the application to whom applicant did not send such notice, applicant shall, within twenty (20) days, provide notice to that person by certified mail, return receipt requested, containing all the required information. Applicant shall also file a supplemental proof of compliance regarding the additional notice.

(7) Provisions of this rule may be waived by the commission for good cause shown.

*AUTHORITY: section 386.250, RSMo 2016. Original rule filed April 5, 2018.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) 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, Morris L. Woodruff, Secretary of the Commission, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received at the commission's offices on or before June 14, 2018, and should include a reference to Commission Case No. EX-2018-0189. 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 June 19, 2018, at 10:00 a.m., in Room 310 of the Governor Office Building, 200 Madison St., Jefferson City, Missouri. 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.*

**SPECIAL NEEDS:** *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.*

**Title 4—DEPARTMENT OF ECONOMIC  
DEVELOPMENT  
Division 240—Public Service Commission  
Chapter 28—[Tele]Communications[, I/VoIP, Video  
Services]**

**PROPOSED AMENDMENT**

**4 CSR 240-28.010 Definitions.** The commission is changing the chapter title, amending sections (2), (5), (6), and (12), adding new sections (4), (7), and (9), deleting sections (5), (6), (8), (10), (11),