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May 5, 2017

Mike Downing, Director
Department of Economic Development
301 W. High Street
P.O. Box 1157
Jefferson City, Missouri 65102



RE: 4 CSR 240-3.164 Electric Utility Demand-Side Programs Filing and Submission Requirements

Dear Mr. Downing:

The Public Service Commission proposes to rescind 4 CSR 240-3.164, Electric Utility Demand-Side Programs Filing and Submission Requirements. This rescission will rescind the existing rules that set forth the information that an electric utility was to provide when it sought approval, modification, or discontinuance of demand-side programs. This rule is being rescinded in its entirety because the requirements have been consolidated into 4 CSR 240-20.093 and 4 CSR 240-20.094.

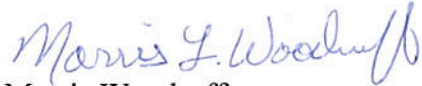
Adopting the proposed rescission does not implicate the takings clause of the U.S. Constitution, because the proposed rescission does not involve the taking of real property.

The Commission has performed the small business analysis required by Section 536.300, RSMo Supp. 2016, and includes the small business impact statement with this filing. The Proposed Rescission of 4 CSR 240-3.164 does not impose any requirement that will cause a direct and significant economic burden upon a small business, or that is directly related to the formation, operation, or expansion of a small business. The Commission certifies that it has determined that the proposed rescission will not have an economic impact on small businesses.

Please find enclosed a copy of the Proposed Rescission, a Small Business Impact Statement, and, for your signature, a Public Entity Cost Affidavit. Please review and sign the Affidavit at your earliest convenience so that the Commission may proceed with publishing the proposed rescission.

Please let me know if you have any questions concerning this proposed rescission.

Sincerely,



Morris Woodruff
Chief Regulatory Law Judge
(573) 751-2849 (telephone)
(573) 526-6010 (facsimile)
Morris.woodruff@psc.mo.gov (e-mail)

Enclosure

**Title 4 – Department of Economic Development
Division 240 – Public Service Commission
Chapter 3 – Filing and Reporting Requirements**

PROPOSED RESCISSION

4 CSR 240-3.164 Electric Utility Demand-Side Programs Filing and Submission Requirements. This rule set forth the information that an electric utility had to provide when it sought approval, modification, or discontinuance of demand-side programs.

PURPOSE: This rule is being rescinded as these requirements have been moved to 4 CSR 240-20.093 and 240-20.094.

AUTHORITY: section 393.1075.11, RSMo Supp. 2010. Original rule filed Oct. 4, 2010, effective May 30, 2011. Rescinded: Filed [date].*

**Original authority: 393.1075, RSMo 2009.*

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 the proposed rescission with the Missouri Public Service Commission, 200 Madison Street, PO Box 360, Jefferson City MO 65102-0360. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. A public hearing is scheduled for [time, place and address of hearing].*

PUBLIC COST

COUNTY OF COLE)

I, Mike Downing, Director of the Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of proposed rescission, 4 CSR 240-3.164, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.

Mike Downing
Director
Department of Economic Development

Subscribed and sworn to before me this _____ day of _____, 2017, I am commissioned as a notary public within the County of _____, State of Missouri, and my commission expires on _____.

Notary Public

Rule Proposal Summary

Please submit the completed form and attachments to Justin Smith and Kristen Sanocki by hand delivery or mail to the Governor's Office (Capitol Room 216) or by fax (1-1495). In accordance with Executive Order 17-03, the Governor's Office must approve each rule twice during the rulemaking process: (1) before the proposed rule is filed with the Secretary of State for notice and comment; and (2) before the rule is adopted by the state agency and the order of rulemaking is filed with JCAR and the Secretary of State. Accordingly, this form also should be submitted twice. Upon approval, the Governor's Office will send an approval letter to the identified contact person. This letter should be included in the rulemaking packet submitted to the Secretary of State and/or JCAR.

Date: May 5, 2017

Department: Public Service Commission

Rule number: 4 CSR 240-3.164

Type of rule (new, amendment, rescission, emergency): rescission

Stage of process (proposed or final): proposed

Contact person name and title: Morris Woodruff – Secretary/Chief Regulatory Law Judge

Contact phone number: 537-751-2849

1. Describe the proposed rule (if an emergency rule, include Section 536.025, RSMo justifications).

Rescission of Electric Utility Demand-Side Programs Investment Mechanisms Filing and Submissions requirements.

2. What is the statutory authority for the proposed rule?

393.1075 RSMo The Missouri Energy Efficiency Investment Act

3. Why should the proposed rule become a Missouri regulation?

Proposing rescission of this rule because the requirements are being moved to 4 CSR 240-20.093 and 4 CSR 240-20.094 to reduce confusion and resources as a result of having requirements in multiple chapters.

4. Why is the proposed rule needed now? Why has it not been promulgated before?

Proposed amendments to 4 CSR 240-20.093 and 4 CSR 240-20.094 were approved to be published on February 1, 2017, and Commission hearings were held on the amendments on May 4, 2017. The associated rescissions were inadvertently not submitted for publication.

5. Is the proposed rule needed as a result of, or in response to, any specific legislation or litigation?

No.

6. Is the proposed rule based on any federal, state, or local regulations or ordinances? If yes, what are any key differences?

No.

7. Is the proposed rule based on any standards, guidelines, or model rules of an agency of the United States or a nationally or state-recognized organization or association? If yes, what are any key differences?

No.

8. How is the proposed rule essential to the health, safety, or welfare of Missouri residents?

The rescissions and associated rule amendments provide the framework for investor-owned electric utilities to continue to promote energy efficiency and offer energy efficiency programs.

9. Have the proposed rule's estimated costs been quantified? What are they?

The rescissions will not have any estimated costs. The associated amendments will not cost state agencies, political subdivisions or private entities more than \$500 in the aggregate.

10. Have the proposed rule's estimated benefits been quantified? What are they?

The benefits have not been quantified, but it is expected that the rescissions will result in a slight benefit due to lack of confusion and extra resources to comply with rules in multiple chapters.

11. What process and schedule are in place to measure the effectiveness of the proposed rule?

N/A for the rescissions. For the associated amendments, there is an "evaluation, measurement and verification" process that is required by the electric utilities 3rd party contractor and by a Commission independent evaluator.

12. Do any less restrictive alternatives exist? Why are these alternatives less desirable than the proposed rule?

N/A

13. What is the sound, reasonably available scientific, technical, economic, or other relevant information upon which the proposed rule is based?

393.1075.11 states: The commission shall provide oversight and may adopt rules and procedures and approve corporation-specific settlements and tariff provisions, independent evaluation of demand-side programs, as necessary, to ensure that electric corporations can achieve the goals of this section (the Act).

14. Does the proposed rule unduly or adversely affect Missouri citizens or customers of the State, or the competitive environment in Missouri?

No. The Commission held multiple workshops in which consumer advocates, environmental groups, industry representatives, regulated utilities and any stakeholder participated and provided input into the amendments related to the proposed rescissions.

15. List the stakeholders engaged to review the proposed rule and the name and title of each stakeholder representative. What was each stakeholder representative's feedback on the proposed rule? Were there any stakeholders that were not engaged to review the proposed rule, and if not, why not?

The Commission held multiple workshops in which consumer advocates, environmental groups, industry representatives, regulated utilities and any stakeholder participated and provided input into the amendments related to the proposed rescissions. Each stakeholder provided multiple rounds of feedback on the amendments associated with the rescissions. There are no known stakeholders that did not engage.

16. List the other state departments affected by the proposed rule and the name and title of each department representative engaged to review the proposed rule. What was each department representative's feedback?

The Office of the Public Counsel – various representatives over the past 5 years. The Department of Economic Development, Division of Energy – various representatives over the past 5 years.

17. (If proposed rule) Please identify each person or organization that you anticipate may oppose or be dissatisfied with the proposed rule. Why do you anticipate this opposition or dissatisfaction? What has been done to attempt to mitigate or eliminate this opposition or dissatisfaction?

N/A

18. (If proposed rule) Has this proposal been considered at a public hearing or meeting? If so, what comments were received, if any?

In addition to the numerous workshops, a public hearing was held May 4, 2017, in which interested commenters were given an opportunity to not only provide comment on the proposed amendments, but also the proposed rescissions.

19. (If final rule) Provide the summary of comments received during the notice and comment period (can be the same as the summary included in the order of rulemaking). If a public hearing was held, please describe how many people attended and what comments were made.

20. By what date do you need a response from the Governor's Office, and why that date?

We need a response from the Governor's Office as soon as possible. The revised chapter 20 rules that will replace these rules have had a hearing and will likely go into effect in October. We want to complete the rescission of these obsolete rules as soon as possible after those rules go into effect to avoid any confusion resulting from having conflicting rules in effect. The rescission of these rules should be completely non-controversial.

Attachments:

1. Proposed rule text (changes to existing regulations visible in bold or redline)
2. Public Entity and Private Entity Fiscal Note
3. Small Business Impact Statement
4. (If final rule) Order of Rulemaking