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Robin Carnahan
Secretary of State

**Administrative Rules Division
Rulemaking Transmittal Receipt**

Rule ID: 8717
Date Printed: 5/12/2008
Rule Number: 4 CSR 240-23.010
Rulemaking Type: Final Order Rule
Date Submitted to Administrative Rules Division: 5/12/2008
Date Submitted to Joint Committee on Administrative Rules: 4/11/2008

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Included with Rulemaking:

Cover Letter

5/12/2008

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Robin Carnahan

Secretary of State
Administrative Rules Division

RULE TRANSMITTAL

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SECRETARY OF STATE
ADMINISTRATIVE RULES

Rule Number 4 CSR 240-23.010

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

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TYPE OF RULEMAKING ACTION TO BE TAKEN

- ☐ Emergency rulemaking, include effective date
☐ Proposed Rulemaking
☐ Withdrawal ☐ Rule Action Notice ☐ In Addition ☐ Rule Under Consideration

☒ Order of Rulemaking

Effective Date for the Order

☒ Statutory 30 days OR Specific date

Does the Order of Rulemaking contain changes to the rule text? ☐ NO

☒ YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:
(8) and (9)

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JOINT COMMITTEE ON

APR 11 2008

ADMINISTRATIVE RULES



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May 12, 2008

Honorable Robin Carnahan
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Dear Secretary Carnahan:

Re: 4 CSR 240-23.020 Electric Utility System Reliability Monitoring and Reporting
Submission Requirements.

CERTIFICATION OF ADMINISTRATIVE RULE


I do hereby certify that the attached is an accurate and complete copy of the order of rulemaking lawfully submitted by the Missouri Public Service Commission for filing on this 12th day of May, 2008.

Statutory Authority: Sections sections 386.040, 386.250, 386.310 and 393.140, RSMo 2000, and 393.130, RSMo Supp. 2007.

If there are any questions regarding the content of this order of rulemaking, please contact:

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BY THE COMMISSION


Colleen M. Dale
Secretary
Missouri Public Service Commission

**Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 23 – Electric Utility Operational Standards**

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**SECRETARY OF STATE
ADMINISTRATIVE RULES**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.040, 386.250, 386.310 and 393.140, RSMo 2000 and 393.130, RSMo Supp. 2007, the commission adopts a rule as follows:

4 CSR 240-23.010 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on January 15, 2008 (33 MoReg 407). This proposed rule will become effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: A public hearing on the proposed amendments was held March 26, 2008, and the public comment period ended March 17, 2008. Five written comments were received, from Union Electric Company d/b/a Ameren UE, Aquila, Inc., The Empire District Electric Company, Kansas City Power & Light and the Missouri Energy Development Association (of which all four companies commenting are members). The only person presenting testimony at the hearing was Daniel I. Beck, on behalf of the staff of the Missouri Public Service Commission. In response to questions from the bench, the following people also testified: Ron Zdeller on behalf of AmerenUE, Mike Palmer on behalf of Empire, Bill Herdegen on behalf of KCP&L, Elliott Connell on behalf of Aquila, and Christina Baker on behalf of the Office of Public Counsel. The testimony and comments verified the need for the proposed rule and generally supported it. Therefore, no substantive changes will be made to the proposed rule.

COMMENT: All seven entities that commented or testified in this proceeding support the rule as proposed. Some participants suggested non-substantive language changes as more fully set forth below. All of those participants do not support the version referred to as the "Dissent Version." Comments or testimony in response to incorporation of specific language into the proposed rule are discussed herein. Discussion of the merits of the Dissent Version, having not been formally proposed by the commission, is not included.

RESPONSE: No language change is necessitated by this comment.

COMMENT: Commenters do not support adoption of reliability performance metric standards. The Commission has recently set clear ground rules for how vegetation management is to be conducted and how infrastructure is to be inspected and maintained and the electric utilities are spending many millions of dollars to implement compliance programs. What reasonably achievable reliability metrics should be is unknown, and a single metric may not be possible. Each of Missouri's electric utilities has different service area characteristics. Some are more metropolitan; others have a high enough percentage of rural circuits. Some serve homes with back-lot-routed distribution lines.

JOINT COMMITTEE ON

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ADMINISTRATIVE RULES

The distribution systems are of differing ages. Tree densities vary. Any "one size fits all" benchmark may create goals that are too easy for some and nearly impossible for others. After the infrastructure and vegetation management rules have been fully implemented, the commission may have sufficient basis for the imposition of company-specific reliability metrics, based on trends revealed in basic reliability metrics, which are reasonably achievable and not overly sensitive to factors outside of the utility's control, such as storm outages.

The proposed rule, at its core, addresses the need to consistently calculate and track reliability metrics, identify areas where reliability is suffering, implement programs to maintain or improve reliability, and regularly track and report these activities to the commission.

The proposed rule is reasonable. It provides for monitoring of reliability performance and complements the previously adopted infrastructure and vegetation rules. The proposed rule establishes a consistent platform for monitoring and reporting reliability metrics. Common metrics and uniform methods of calculation are critical to consistent year-to-year trending and comparisons between utilities. Also, incorporation of the only national electric utility reliability standard, IEEE 1366-2003, allows broader comparison across the. The reporting requirements will enable monitoring of the utilities' compliance with the rule without the need to impose fines, penalties, or sanctions. Trending is different from benchmarking. An extensive time-series trend of consistent performance metrics is required before any meaningful benchmarks or performance standards can be considered.

RESPONSE: No language change is necessitated by this comment.

COMMENT: The Commission has recently adopted an Infrastructure Rule and Vegetation Rule. These rules reasonably balance the cost of these programs against the likely service quality improvements they will yield. It is appropriate that the Commission adopt a reliability reporting rule that provides for thorough monitoring of the main objective of these two previously adopted rules, which is maintaining or improving service reliability. It is also appropriate that the Commission require that electric corporations track their worst performing circuits and provide thorough reporting of what is being done to address these trouble spots.

RESPONSE: No language change is necessitated by this comment.

COMMENT: KCPL does not believe the changes suggested in its comments are substantive changes to the proposed rule. Rather, the suggested changes are meant to clarify and improve certain language in the rule. The Company commends the Commission's collaborative process that resulted in this draft rule yielding a reasonable and balanced rule, and appreciates the opportunity to supply comments at this time.

RESPONSE: No language change is necessitated by this comment.

COMMENT: Aquila does not propose that any substantive changes be made to the proposed rule. The regulatory process that resulted in this draft of the rule yielded a reasonable product. Aquila believes the rule, as drafted, strikes an appropriate balance between supporting and improving, where possible, the quality of the service that is provided and the real costs associated with the specific requirements of the rule at issue.

Aquila believes the commission's rule as approved by the majority, has appropriately achieved that balance and it should therefore be adopted, as proposed.

RESPONSE: No language change is necessitated by this comment.

COMMENT: Empire supports the proposed rule, as it will provide a consistent method of calculating reliability metrics. Empire strongly cautions against modifying the rule as proposed by the dissenting opinion as Empire anticipates it will only increase the cost of electrical service to Missouri customers with no recognizable benefit.

RESPONSE: No language change is necessitated by this comment.

COMMENT: AmerenUE reiterates its position that the reliability rule, as proposed by the majority of Commissioners in this rulemaking, is an appropriate rule that will provide the Commission as well as the public with the necessary information to properly discharge the Commission's oversight duties with respect to ensuring that Missouri's electric utilities provide safe and adequate service with an appropriate level of reliability.

RESPONSE: No language change is necessitated by this comment.

COMMENT: Section (1) of the proposed rule requires electric utilities to document, on a monthly basis, reliability performance as measured by System Average Interruption Frequency Index (SAIFI), Customer Average Interruption Frequency Index (CAIFI), System Average Interruption Duration Index (SAIDI) and Customer Average Interruption Duration Index (CAIDI). AmerenUE believes the adoption of IEEE standard 1366 "Guide for Electric Power Distribution Reliability Indices" for definitions of terms used in the various reliability indices, as required in Section (3) will ensure that all of the utilities in Missouri classify their interruptions in a consistent manner rather than relying on each utility to define, for example, what constitutes a "service interruption." Another commenter suggested that the rule specifically state that "Index Definitions and Calculations shall be per IEEE Standard 1366-2003, subject to the exclusions listed in section (5)."

RESPONSE: The indices set forth in this section of the rule are terms of art with specific meaning, derived only from the IEEE standards. Therefore, the language is sufficiently clear, and no language change will be made as a result of this comment.

COMMENT: Section (2) requires reliability information to be filed annually, adjusted and not adjusted for major storms, by each utility. Over time, these reports will assist the Commission in monitoring and evaluating the reliability performance of each utility in the state as well as improve the transparency of utility operations to the Commission. This should enhance Commission oversight of utility system reliability.

RESPONSE: No language change is necessitated by this comment.

COMMENT: The Infrastructure Rule (4 CSR 240-23.020) reporting is due annually on July 1st. The Commission should use the same date for reporting the proposed rule metrics.

RESPONSE: The date for reporting under this rule was intentionally made to be different from the other rules, so as to allow for better review. No change will be made.

COMMENT: In section (3), the term “storms” is already included as a Major Event in the referenced IEEE 1366-2003 standard. Delete the word “storm” from the second sentence.

RESPONSE: Although this comment is technically correct, the word “storm” properly directs users to modify certain reports, as storms are the most common “major event.” No change will be made.

COMMENT: Sections (6) through (8) deal with tracking and reporting of a utility’s “Worst Performing Circuits.” These tracking and reporting requirements will further enhance the Commission’s ability to provide appropriate oversight relating to the overall provision of safe and adequate service by the utilities. However, it is important to note that there are circuits that will not leave the Worst Performing Circuit list, because it would not be appropriate to make the enormous investment necessary to move those circuits off of the Worst Performing Circuit List. For example, portions of the AmerenUE system run through densely forested and thinly populated areas with very long distances between the substation and the last residential customer. Because some of these lines are located in a national forest, AmerenUE faces government-mandated restrictions on the type of vegetation management practices it can undertake. This means that there will be outages in these areas that have nothing to do with how well AmerenUE is maintaining these circuits. These kinds of outages are a function of the location of the lines in a rural, heavily forested area. This is not to say that the Company cannot or will not work to improve the reliability of these circuits, but it is important to note at the outset of these rules that not all circuits are equal, and not all can be improved with a simple infusion of money.

RESPONSE: No language change is necessitated by this comment.

COMMENT: A program to address worst performing circuits is an important component of an overall asset management portfolio. KCPL believes the proposed rule’s target of addressing 5% of a utility’s Missouri circuits is a reasonable objective. Increasing the target from 5% to 10% could double KCPL’s cost to comply with the rule. Reporting under the proposed rule of the 5% Worst Performing Circuits is reasonable, and will yield the most cost-effective improvements in reliability for KCPL’s customers.

RESPONSE: No language change is necessitated by this comment.

COMMENT: In section (6), clarify scope of analysis. Insert the word “distribution” in the second sentence, *i.e.*, “...analyzing its worst performing distribution circuits...”

RESPONSE: The section already limits its application to “...circuits used to serve... retail customers...” Insertion of the word “distribution” is unnecessary. No change will be made in response to this comment.

COMMENT: MEDA recommends that year 2010 in the first sentence of section (8) be revised to 2011. This paragraph refers to 3 consecutive years of data and this data will not now be available until 2011.

RESPONSE AND EXPLANATION OF CHANGE: The requested change is appropriate and will be made.

COMMENT: In section (8), clarify the scope of worst performing circuit analysis. Insert the words "root causes" into the last sentence, *i.e.*, "...or other local conditions, *root causes*, customer density and ..."

RESPONSE: Although insertion of this language is not inconsistent with the intent of this section, it is unnecessary. No change will be made in response to this comment.

COMMENT: In section (9), as reliability programs are, by their very nature, intended to maintain or improve system reliability, delete the word "Improvement" from the paragraph title.

RESPONSE: Although deletion of this language is not inconsistent with the intent of this section, it is unnecessary. No change will be made in response to this comment.

COMMENT: Annual budgets are not always approved by the end of the previous calendar year. Completion of the previous year's scope may affect the following year's programs as well. Although 80% of the plan may be known by December 31st of the preceding year, the entire plan usually is developed after the beginning of the year. Move the date for filing the summary report on reliability programs back by at least two months to the end of February.

RESPONSE: As this section of the rule calls for submission of plans, it is understood that some of the details may not be final, and that in some instances, activity will differ from the plan. If, through experience, this section proves unworkable, it can be amended. Until then, companies should submit what plans they have, in such detail as they can gather, in the required time frame. No change will be made in response to this comment.

COMMENT: The language is unclear as to whether the first report is due on December 31, 2009 and whether it will cover programs planned for execution in 2010. Clarify the due date and content of the first summary report.

RESPONSE AND EXPLANATION OF CHANGE: This section is confusing and will be rewritten, as more fully set forth below.

COMMENT: Section (10) requires the undergrounding of lines in new residential subdivisions. Commenters generally agree with this requirement, although there may be a need to apply for variances under certain circumstances. The Staff notes that some companies may need to change their tariffs to comply fully with this section. Commenters concur with the provision which allows the installation of overhead facilities where the installation of underground facilities would not be prudent.

Some companies currently offer residential subdivision developers the option of overhead or underground service facilities and the developer bears additional costs of underground service. Many developers select underground facilities for their subdivisions; however, some developers do select overhead. Those companies do not anticipate changing the practice as a result of the adoption of the proposed rule, but will provide and maintain a record of any developer's request for overhead facilities.

One commenter asserts that the rule lacks clarity. The intent of this section is to install facilities on the surface at grade level or below grade as opposed to overhead on poles, resulting in the primary, secondary and service cables to be below grade. Change

the end of the second sentence to read, "... subdivision distribution facilities underground, or surface mounted so conductors and cables are underground."

RESPONSE: As noted above, the section allows the installation of overhead facilities where the installation of underground facilities would not be prudent, whether for financial technical or other reasons. The idea that pedestals will be on-grade is implied within the rule, as placing the electronic equipment contained therein in underground facilities would be very costly, less reliable and more difficult to service, to wit: unreasonable. Although insertion of this language is not inconsistent with the intent of this section, it is unnecessary. No change will be made in response to this comment.

COMMENT: Section (11) allows the Commission to disseminate reliability information to the public, and provide comparisons of this data to similar information from other states. The rule indicates that the Commission will also release explanations of differences, such as calculation methodologies. AmerenUE appreciates the Commission's recognition that it is not possible to simply compare one utility's reliability numbers with another. The same result for different utilities, for example one rural and one urban, may indicate a reliability problem for one utility and not for the other. Consequently, along with differences in calculation methodologies, the Commission should acknowledge in any informational release that a straight comparison of the reliability statistics of any two utilities is likely not appropriate and that there are many factors, including the type of territory each utility serves, that will impact a particular utility's reliability statistics. A more appropriate comparison, and one that might provide useful information to the public, would be a comparison of the same utility's reliability statistics over a period of years. That is information which would be provided under this rule. Certainly that information will help reveal trends, either good or bad.

RESPONSE: No language change is necessitated by this comment.

COMMENT: In the course of the hearing, Commissioner Clayton asked the various witnesses whether they would support the insertion of the following language in the rule:

In each electrical corporation's next general rate increase or general rate decrease case, part of the electrical corporation's rates and charges shall be ordered by the commission to go into effect interim, subject to refund. The amount of the electrical corporation's rates and charges that shall be ordered to go into effect interim, subject to refund shall equal: for each residential customer, for each month, the greater of \$25.00 or the customer's monthly customer charge, and for each other distribution customer, for each month, the customer's minimum monthly bill prorated for four (4) days. Within 30 days after an electrical corporation provides customer credits pursuant to this rule, it shall provide the staff of the commission and to the office of the public counsel workpapers supporting that event. A true-up hearing shall occur no later than 120 days after each succeeding 12 month period from the date new rates and charges go into effect after a general rate increase or a general rate decrease case. The purpose of the true-up procedure shall be for the commission to review both the electrical corporation's compliance with the reliability requirements of this rule and the adequacy of the monies collected interim,

subject to refund to fund the credits required by this rule for a particular 12 month period. If the commission determines that an electrical corporation has complied with this rule for a particular 12 month period, and the electrical corporation still has funds interim, subject to refund remaining for that particular 12 month period, the commission may direct that the electrical corporation is no longer required to treat these particular funds as interim, subject to refund. If the commission determines that an electrical corporation has not complied with this rule in a substantial facet for the particular 12 month period, and, therefore, is still subject to the requirement of funding credits for the particular 12 month period under review, and the electrical corporation still has funds interim, subject to refund remaining for this particular 12 month period, the commission may direct that the electrical corporation shall continue to treat these particular funds as interim, subject to refund pending further commission order. If the electrical corporation has not complied with the crediting requirements of this rule, the commission may order the electrical corporation to comply.

The witnesses all responded that they would not.

RESPONSE: No language change is necessitated by this comment.

COMMENT: KCPL offers correction to data in Fiscal Note – Private Cost as published in the Missouri Register. The private cost information was updated. The number of circuits in section IV should be increased from 420 circuits to 444 circuits with 5% equaling 23 circuits. As a result, the estimated annual cost for KCPL is increased from \$1,156,000 to \$1,227,000 in Sections II and III. These changes have negligible effect on the first year implementation cost estimate.

RESPONSE AND EXPLANATION OF CHANGE: The private cost fiscal note will be changed to reflect this correction and is attached hereto.

**Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 23 – Electric Utility Operational Standards**

PROPOSED RULE

4 CSR 240-23.020 Electric Utility System Reliability Monitoring and Reporting Submission Requirements

(8) Multi-Year Worst Performing Circuit Reporting. If, on or after the time the annual report required by section (7) for calendar year 2011 is filed, a circuit has been on the worst performing circuit list for any two (2) of the three (3) most recent consecutive calendar years, the electrical corporation shall include detailed plans and schedules for improving the performance of that circuit in addition to the other information required by section (7). Such plans and schedules may vary from circuit to circuit based on

differences in geography or other local conditions, customer density and cost considerations.

(9) Reliability Improvement Programs. Each electrical corporation shall transmit to the manager of the energy department of the commission, or the manager's designee, no later than the last business day of December each year: A summary report detailing all programs scheduled for the upcoming calendar year designed to maintain or improve service reliability. The information shall be reported by regional/district/division operating areas, if the electrical corporation's operations are divided into regions/districts/divisions. This report shall include funding levels and the status of each of these programs. The first such report shall be transmitted no later than December 31, 2008.