

**Robin Carnahan**

Secretary of State  
Administrative Rules Division

**RULE TRANSMITTAL**

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**RECEIVED**

**DEC 16 2009**

**SECRETARY OF STATE  
ADMINISTRATIVE RULES**

4 CSR 240-3.190 Reporting Requirements for Electric Utilities and Rural  
Rule Number Electric Cooperatives

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

FILED  
December 17, 2009  
Data Center  
Missouri Public  
Service Commission

Name of person to call with questions about this rule:

Content Morris L. Woodruff Phone 573-751-2849 FAX 573-526-6010

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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:

Small Business Regulatory  
Fairness Board (DED) Stamp

SMALL BUSINESS  
REGULATORY FAIRNESS BOARD

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JOINT COMMITTEE ON

DEC 16 2009

ADMINISTRATIVE RULES



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**ROBERT M. CLAYTON III**  
Chairman

**JEFF DAVIS**

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**KEVIN GUNN**

**ROBERT S. KENNEY**

**Missouri Public Service Commission**

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**WESS A. HENDERSON**  
Executive Director

**DANA K. JOYCE**  
Director, Administration and  
Regulatory Policy

**ROBERT SCHALLENBERG**  
Director, Utility Services

**NATELLE DIETRICH**  
Director, Utility Operations

**STEVEN C. REED**  
Secretary/General Counsel

**KEVIN A. THOMPSON**  
Chief Staff Counsel

December 16, 2009

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

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SECRETARY OF STATE  
ADMINISTRATIVE RULES

Re: 4 CSR 240-3.190 Reporting Requirements for Electric Utilities and Rural Electric Cooperatives

Dear Secretary Carnahan,

**CERTIFICATION OF ADMINISTRATIVE RULE**

I do hereby certify that the attached is an accurate and complete copy of the proposed rulemaking lawfully submitted by the Missouri Public Service Commission.

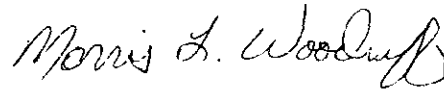
The Public Service Commission has determined and hereby certifies that this proposed rulemaking will not have an economic impact on small businesses. The Public Service Commission further certifies that it has conducted an analysis of whether or not there has been a taking of real property pursuant to section 536.017, RSMo 2000, that the proposed rulemaking does not constitute a taking of real property under relevant state and federal law, and that the proposed rulemaking conforms to the requirements of HB 191, Section 1, regarding user fees.

The Public Service Commission has determined and hereby also certifies that this proposed rulemaking complies with the small business requirements of HB 191, Section 1, in that it does not have an adverse impact on small businesses consisting of fewer than twenty-five full or part-time employees or it is necessary to protect the life, health, or safety of the public, or that this rulemaking complies with HB 191, by exempting any small business consisting of fewer than twenty-five full or part-time employees from its coverage, by implementing a federal mandate, or by implementing a federal program administered by the state or an act of the general assembly.

Statutory Authority: sections 386.250, and 394.160, RSMo 2000

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

Morris L. Woodruff, Chief Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street  
P.O. Box 360  
Jefferson City, MO 65102  
(573) 751-2849  
morris.woodruff@psc.mo.gov

A handwritten signature in cursive script that reads "Morris L. Woodruff". The signature is written in dark ink and is positioned above the printed name and title.

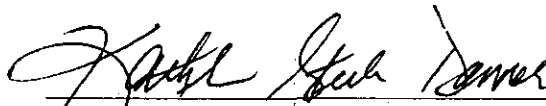
Morris L. Woodruff  
Chief Regulatory Law Judge

AFFIDAVIT

PUBLIC COST

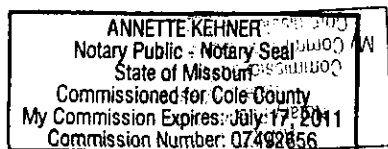
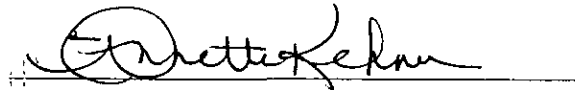
STATE OF MISSOURI     )  
                                      ) ss.  
COUNTY OF COLE        )

I, Kathleen Steele Danner, Interim Director, Missouri Department of Economic Development, first being duly sworn, on my oath, state that it is my opinion that the cost of the proposed amendment to rule, 4 CSR 240-3.190, is less than five hundred dollars in the aggregate to this agency, any other agency of state government or any political subdivision thereof.



Kathleen Steele Danner  
Interim Director  
Department of Economic Development

Subscribed and sworn to before me this 3<sup>rd</sup> day of November, 2010. I am commissioned as a notary public within the County of Cole, State of Missouri, and my commission expires on 17 July 2011.



Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT

RECEIVED

DIVISION 240 - Public Service Commission  
Chapter 3 – Filing and Reporting Requirements

DEC 16 2009

PROPOSED AMENDMENT

SECRETARY OF STATE  
ADMINISTRATIVE RULES

4 CSR 240-3.190 Reporting Requirements for Electric Utilities and Rural Electric Cooperatives

*PURPOSE OF AMENDMENT: This amendment will allow the commission to be better informed about electrical accidents and events that result in significant property loss, injury, or death. In particular, the amendment will require electric utilities and rural electric cooperatives to notify the commission of accidents and events involving human contact with electric current of significant voltage even when the utility or cooperative believes the problem originated on the customer's side of the meter.*

*PURPOSE: This rule prescribes requirements and procedures for the reporting of certain events by electric utilities to the commission to inform the commission of developments [which]that may affect the rendering of safe and adequate service and to enable the commission to thoroughly and fairly investigate certain accidents and events [which]that may have an impact in future electric rate proceedings at the time and in the context in which those events occur. This rule also includes electrical facilities [incident]accident and event reporting requirements for rural electric cooperatives.*

(1) Commencing on September 1, 1991, every electric utility shall accumulate the following information and [transmit] **submit** it to the manager of the Energy Department of the commission, or his/her designee, no later than the last business day of the month following the month to be reported and after that on a monthly basis:

(A) All generating unit outages and de-rates, excluding hydroelectric generating units and units whose capacity comprises less than one and one-half percent (1 1/2%) of the electric utilities [installed] **accredited** capacity;

[(B) All fuel purchases for power production purposes, including the terms of those purchases. A copy of the Monthly Report of Cost and Quality of Fuels for Electric Plants on FERC Form No. 423, as submitted to the Federal Energy Regulatory Commission (FERC), will satisfy the requirements of this subsection;]

[(C)](B) Monthly as-burned fuel report for each carbon-based fuel generating unit, including the amount of each type of fuel consumed, the British thermal unit (Btu) value of each fuel consumed, and the blending percentages (if applicable);

[(D)](C) Net system input for the electric utility;

[(E)](D) Net hourly generation for each generating unit;

[(F)](E) Megawatt amount and delivery prices of hourly purchases and sales of electricity from or to other electrical services providers, independent power producers or cogenerators, including the parties to purchases and sales, and the terms of purchases and sales;

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1. If adjustments are made to the price of hourly purchases after the purchase is made, provide the amount of the adjustment and the time period over which the adjustment was made;

~~[(G)](F)~~ Capacity purchases of longer than seven (7) days' duration;

~~[(H)](G)~~ Planned outages of power production facilities, as they are scheduled or rescheduled. Changes from the planned outage schedule must be reported by telephone or electronic transmission to the manager of the Energy Department of the commission or his/her designee prior to the initiation of the outage, if the changes result in the planned outage schedule being different from the schedule in the most recently submitted monthly report;

~~[(I)](H)~~ Planned fuel test burns, unit heat-rate tests and accreditation runs as they are scheduled or rescheduled. Changes from previously planned fuel test burns, unit heat-rate tests and accreditation runs must be reported by telephone or electronic transmission to the manager of the Energy Department of the commission or his/her designee prior to their initiation, if these changes result in the schedule for fuel test burns, unit heat-rate tests and accreditation runs being different from the schedule in the most recently submitted monthly report;

~~[(J)](I)~~ Citations or notices of violation related to power production facilities received from any state or federal utility regulatory agency or environmental agency including, but not limited to, the FERC, the Nuclear Regulatory Commission (NRC), the Environmental Protection Agency (EPA), the Department of Natural Resources (DNR) and the Department of Energy (DOE);

~~[(K)](J)~~ The terms of new contracts or existing contracts which will be booked to Accounts 310-346 or Accounts 502-546 of the FERC's Uniform System of Accounts requiring the expenditure by the electric utility of more than one hundred thousand dollars (\$100,000) including, but not limited to, contracts for engineering, consulting, repairs and modifications or additions to an electric plant; and

~~[(L)](K)~~ Copies of all written reports on forced generating unit outages of longer than three (3) days, test burns of fuel, heat-rate tests, accreditation runs and responses to state or federal utility regulatory agencies or environmental agencies including, but not limited to, the FERC, the NRC, the EPA, the DNR and the DOE, concerning any alleged infractions, deviations or noncompliance with those agencies' rules or standards related to power production facilities.

(2) ~~[Any of t/~~The information required in section (1)(A) through (I) of this rule ~~/may/~~shall be provided to the manager of the Energy Department of the commission or his/her designee in an electronic format from which the data can be easily extracted for analyses in spreadsheet or data base software. ~~[The electronic files]~~All the information required in section (1) may be submitted through the commission's Electronic Filing and Information System (EFIS).

(3) Every electric utility shall report to the manager of the Energy Department of the commission or his/her designee by telephone or through EFIS by the end of the first business day following discovery, the information described in subsections (3)(A)–(E) below. The electric utility shall submit, either by mail or through EFIS within five (5) business days following the discovery, an update of the incident and any details not available at the time of the initial report:

(A) Details of any accident or event at a power plant involving serious physical injury or death or property damage in excess of ~~one~~two hundred thousand dollars ~~[( \$100,000 )]( \$200,000 )~~. A detailed investigative report of the accident or event shall be submitted within 90 days, or if the investigation will take longer than 90 days, a draft of the plan for the investigation shall be submitted within 90 days;

(B) Forced outages of any nuclear generating unit(s) that could reasonably be anticipated to last longer than three (3) days;

(C) Forced outages of any fossil-fuel fired generating unit(s) *[which constitutes twenty percent (20%) or more of the electric utility's]*with an accredited capacity of greater than one hundred (100) megawatts that reasonably could be anticipated to last longer than three (3) days, when the unit(s) is forced out due to a common occurrence;

(D) Reductions of coal inventory below a thirty (30)-day supply and reductions of oil inventory below fifty percent (50%) of normal oil inventory; and

(E) Loss of transmission capability that could limit the output of a generating plant.

(4) Every electric utility and rural electric cooperative shall notify designated commission personnel *[report to the manager of the Energy Department of the commission or his/her designee,]*by telephone *[or through EFIS, a brief description]*of an accident or event by the end of the first business day following the discovery of any accident or event. *[resulting from electrical contact with its energized electrical supply facilities which results in admission to a hospital or the fatality of an employee or other person or any other accident resulting from electrical contact considered significant by the utility. The electric utility or rural electric cooperative shall submit, either by mail or through EFIS within five (5) business days following the discovery, an update of the incident and any details not available at the time of the initial report.]* Accidents or incidents that shall be reported shall be those resulting from:

(A) Electrical contact, arc or flash with its energized electrical supply facilities that results in admission to a hospital or the fatality of an employee or other person;

(B) Human contact with electric current of significant voltage within areas where it supplies power or operates energized electrical supply facilities that results in admission to a hospital or the fatality of an employee or other person, even when the source of the problem is believed to have originated on the customer's side of the meter, provided the utility or rural electric cooperative first has received proper notice or has actual knowledge of the accident or event; or

(C) any other accident or event resulting from electrical contact, arc, or flash considered significant by the utility or rural electric cooperative.

(5) The electric utility or rural electric cooperative shall submit to designated commission personnel within five (5) business days following the discovery, a written report consisting of an update of the accident or event and any details not available at the time of the initial telephone notification.

~~[(5)]~~(6) All reports and information submitted by electric utilities and rural electric cooperatives pursuant to this rule shall be subscribed by the president, treasurer, general manager, receiver or other authorized representative of the electric utility or rural electric cooperative having knowledge of the subject matter and shall be stated to be accurate and complete, and contain no material misrepresentations or omissions, based upon facts of which the person subscribing the report or information has knowledge, information or belief. *[Any information submitted through EFIS will bear the electronic signature of the utility representative who is submitted it.]*

~~[(6)]~~(7) The reporting requirements prescribed by this rule shall be in addition to all other reporting requirements prescribed by law.

~~[(7)]~~(8) The information contained in the reports filed pursuant to this rule shall be subject to the provisions of section 386.480, RSMo and the use of that information in any proceeding before the commission shall be governed by the terms of **4 CSR 240-2.135** and any protective order issued by the commission in the proceeding, if a protective order has been issued.

~~[(8)]~~(9) The receipt by the commission or commission staff of reports prescribed by this rule shall not bind the commission or commission staff to the approval or acceptance of, or agreement with any matter contained in the reports for the purpose of fixing rates or in determining any other issue that may come before the commission.

~~[(9)]~~(10) Upon proper application and after notice and an opportunity for hearing, the commission, in its discretion, may waive any provision of this rule for good cause shown.

*AUTHORITY: sections 386.250 and 394.160, RSMo 2000. \* Original rule filed Aug. 16, 2002, effective April 30, 2003. Amended: Filed Oct. 14, 2003, effective April 30, 2004.*

*\*Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996; and 394.160, RSMo 1939, amended 1949, 1984.*

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

*PRIVATE COST: This proposed rule will not cost affected private entities more than \$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, Steven C. Reed, Secretary of the Commission, P.O. Box*



360, Jefferson City, MO 65102. To be considered, comments must be received at the Commission's offices on or before March 5, 2010, and should include a reference to Commission Case No. EX-2010-0122. Comments may also be submitted via a filing using the Commission's electronic filing and information system(EFIS). A public hearing regarding this proposed rule is scheduled for March 8, 2010 at 2:00 p.m. at the commission's offices in the Governor Office Building, 200 Madison Street, Room 305, 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. 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 (voice) or Relay Missouri at 711.

## **FISCAL NOTE**

### **PRIVATE COST**

#### **I. RULE NUMBER**

<b>Rule Number and Name</b>	<b>Type of Rulemaking</b>
4 CSR 240-3.190 Reporting Requirements for Electric Utilities and Rural Electric Cooperatives	Proposed Rule

#### **II. SUMMARY OF FISCAL IMPACT**

<b>Estimated number of entities that will likely be affected by adoption of the rule.</b>	<b>Types of entities that will likely be affected by adoption of the rule.</b>	<b>Estimated aggregate cost of compliance with the rule by the affected entities.</b>
44	Investor-owned and rural electric cooperatives	Less than \$500

#### **III. WORKSHEET**

#### **IV. ASSUMPTIONS**

If adopted, this proposed rule will prescribe requirements and procedures for the reporting of certain events by electric utilities to the commission to inform the commission of developments that may affect the rendering of safe and adequate service and to enable the commission to thoroughly and fairly investigate certain accidents and incidents that may have an impact in future rate proceedings at the time and in the context in which those events occur. This rule also includes electrical facilities accident and incident reporting requirements for rural electric cooperatives.

## **FISCAL NOTE**

### **PUBLIC COST**

#### **I. RULE NUMBER**

<b>Rule Number and Name</b>	<b>Type of Rulemaking</b>
4 CSR 240-3.190 Reporting Requirements for Electric Utilities and Rural Electric Cooperatives	Proposed Rule

#### **II. SUMMARY OF FISCAL IMPACT**

<b>State agencies or political subdivisions that will likely be affected by adoption of the proposed rule.</b>	<b>Estimated aggregate cost of compliance with the proposed rule by the affected entities.</b>
Public Service Commission Office of the Public Counsel	Less than \$500.

#### **III. WORKSHEET**

Not Applicable

#### **IV. ASSUMPTIONS**

If adopted, this proposed rule will prescribe requirements and procedures for the reporting of certain events by electric utilities to the commission to inform the commission of developments that may affect the rendering of safe and adequate service and to enable the commission to thoroughly and fairly investigate certain accidents and incidents that may have an impact in future rate proceedings at the time and in the context in which those events occur. This rule also includes electrical facilities accident and incident reporting requirements for rural electric cooperatives.

## Small Business Regulator Fairness Board Small Business Impact Statement

Date:

Rule Number: 4 CSR 240-3.190

Name of Agency Preparing Statement: Public Service Commission

Name of Person Preparing Statement: Lena M Mantle

Phone Number: 573-751-7520 Email: lena.mantle@psc.mo.gov

Name of Person Approving Statement:  
Morris L. Woodruff

**Please describe the methods your agency considered or used to reduce the impact on small businesses** *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

Reports may be made by phone or fax

**Please explain how your agency has involved small businesses in the development of the proposed rule.**

The small businesses that would be affected are rural electric cooperatives. The proposed changes have been discussed with a representative of the Associated Missouri Electric Cooperatives.

**Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.**

Fiscal impact of less than \$500

**Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.**

5 of the rural electric cooperatives. All other businesses impacted are considered large businesses.

**Please list direct and indirect costs (in dollars amounts) associated with compliance.**

Less than \$500/year

**Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.**

Investor-owned electric utilities and rural electric cooperatives.

**Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?**

Yes ☐ No ☒

**If yes, please explain the reason for imposing a more stringent standard.**

*For further guidance in the completion of this statement, please see §536.300, RSMo.*