

Exhibit # \_\_\_\_\_

**In the Matter of a Proposed Rule to Establish Procedures  
for Natural Gas Utilities to Establish an Infrastructure  
System Replacement Surcharge**

**December 10, 2003 Public Hearing**

**Case No. GX-2004-0090**

**FILED**

**DEC 30 2003**

**Missouri Public  
Service Commission**

**Suggested Changes to the Proposed Rule &  
Missouri Public Service Commission Staff Responses**

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Missouri Public Service Commission Staff

Staff filed its suggested changes to the proposed rule on December 4, 2003. Where other parties have suggested changes that Staff believes should be incorporated or Staff has already suggested similar changes to the proposed rule, such changes are noted here. The proposed rule was published in the Missouri Register on November 3, 2003. The public comment period on this rule ended December 4, 2003. This exhibit details each of the changes recommended by parties other than Staff and Staff's responses to these suggested changes. The proposed rule with all changes that Staff is currently recommending be incorporated is attached to this exhibit as Attachment A.

**1) Brian T. McCartney, Attorney w/Brydon, Swearingen & England on Behalf of  
Atmos Energy Corporation, Laclede Gas Company and Missouri Gas Energy  
"Missouri Gas Utilities", 312 East Capitol Avenue, PO Box 456, Jefferson City, MO  
65102-0456, (573) 635-7166**

- a) "For all of these reasons, the Missouri Gas Utilities respectfully request that the Commission modify both sections (8) and (9) of the Proposed Rule so as to eliminate the separate line-item billing requirement. (See Appendix 1, p.2, for suggested revisions)."

Exhibit No. 1  
Case No(s) GX-2004-0090  
Date 12-16-03 Rptr KF  
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### Staff Response

Staff has reviewed the suggested changes of the Missouri Gas Utilities on this issue and does not believe these changes should be incorporated into the proposed rule. The public notice requirements of sections (8) and (9) of the proposed rule are permitted under subsection 386.250 (6), RSMo. Staff does however recommend that the changes detailed in its comments filed on December 4, 2003 be implemented to subsections (8)(A) and (8)(C). These suggested changes are shown in Attachment A. Staff's recommended change to subsection (8)(A) simplifies the notice requirement somewhat while retaining information that the customer should be provided with. Staff's recommended change to subsection (8)(C) removes the "line-item" requirement since it is not Staff's intent to prescribe a format for the surcharge description on customer bills. It is Staff's intent that customers be provided with the information necessary for them to calculate their bill and that this information be implemented into each utility's billing system with a minimum of effort. Staff notes that if the Commission is interested in reducing the notice requirements of the rule that removal of subsection (8)(B) and the corresponding provisions of subsection (9)(B) could be implemented with a relatively small reduction in information to customers. Staff does believe however that the notice provisions of subsections (8)(A) and (8)(C) are necessary in order for customers to be provided with timely and important information regarding the surcharges on their bills.

In Missouri Gas Utilities' comments they made several assertions regarding the public notice requirements of section (8) that Staff will take this opportunity to respond to. On page 4 of the Missouri Gas Utilities comments they state "Each of these additional notice requirements conflicts with the specific requirements of HB 208." Staff has carefully considered the statutory provisions of HB 208 and notes that no such specific prohibitions exist. The legislature did not change the billing practice authority provided to the Commission under 386.250 (6), RSMo. The fact that a line item billing provision was considered in an earlier version of the draft legislation and was subsequently removed does not mean that such a notice is prohibited.

The Missouri Gas Utilities go on in their comments on page 5 to state "It would also increase costs and/or inconvenience customers by requiring that utilities devote more of their customer service resources to answer the increase in customer inquiries that typically occurs whenever there is a notable change to the customer's bill..." This comment seems to suggest that the Missouri Gas Utilities would rather not be burdened with explaining this additional surcharge on customer bills. Staff believes that the Missouri Gas Utilities must divulge and explain this surcharge to their customers and that customers should be provided with the information necessary for them to attempt to

understand the surcharge. Not providing these notices to customers is little more than sweeping the surcharge “under the rug” and Staff cannot support this course of action. Missouri Gas Utilities’ goes on in their comments in the footnote on page 5 to state “the Commission does not require that individual customer notices be provided for Purchased Gas Adjustment rate changes” and “while Missouri Gas Energy’s ongoing Experimental Low-Income Rate was funded by means of a monthly surcharge on the bills of its residential customers, the Commission did NOT require that this surcharge be identified on each customer’s bill by means of a separate line-item.” Regarding the PGA, Staff is working to make certain that the PGA is separately identified on all customer bills in the state. Customers needing help calculating their bills sometimes call Staff and this problem is noticed in particular with Laclede Gas Company since their current bills do not break out the PGA. Staff intends to address this issue in Laclede’s next rate case. At this time, most utilities in the state provide the PGA rate on their bill and show what this number is on their sample bill information. Regarding the MGE ELIR, this is an experiment that will end shortly and results in less than \$1 impact to each customer per year. In Staff’s opinion it was not reasonable to necessitate billing system changes for a temporary experiment with this level of impact per customer.

- b) “As a result, the Proposed Rule’s attempt to alter the meaning of net original cost must be rejected for what it is – a transparent effort to interject into the ISRS process the very kind of extraneous revenue requirement and ratemaking issues that are expressly forbidden by the clear language of HB 208. To that end, Appendix 1 reflects the revisions to subsection (18)(O) of the Proposed Rule that must be made to correct this deficiency.”

#### Staff Response

Staff has carefully considered the changes to subsection (18)(O) proposed by the Missouri Gas Utilities and has, in its own suggested changes, proposed that this section be changed to provide further clarification. Staff does not agree with the suggested change by the Missouri Gas Utilities.

The ISRS procedure is a ratemaking proceeding – the product is an additional rate that is applied to each customer’s bill. It is a single-issue ratemaking, as the legislature has specifically acknowledged in Section 393.1015.7. It appears from the language and structure of Sections 393.1009 through 393.1015, that the purpose of the legislation is to address the single issue of relief for natural gas utilities from regulatory lag attributable to safety-related infrastructure investments. The relief provided is prompt inclusion of “net original cost of eligible infrastructure system replacements”, and the associated income tax, property tax and depreciation expense of such investment. There is no indication that

in addressing these limited ratemaking issues, that the Commission is to ignore any factor that is relevant to their determination.

The ISRS proceeding is a single-issue rate case. There is nothing in the legislation whatsoever that indicates that the Commission is to address only the regulatory lag that works against natural gas utilities on this single issue. That is, there is no legislative intent, expressed or implied, that directs the Commission to ignore the regulatory lag that works against consumers and in favor of the natural gas utilities, on this single issue. The comments of the Missouri Gas Utilities seek to confuse the full consideration of a single issue with the consideration of more than one issue. For example, separate issues might be the rate effects of changes in other, non-ISRS, property accounts (buildings, computers, vehicles); or changes in other expenses of the utilities (payroll, insurance, postage). The Commission must consider all relevant factors that bear on the single-issue of relief from regulatory lag due to infrastructure investment. One such relevant factor is the regulatory lag that, beneficially to the utility and detrimental to the customer, also occurs during the period for which the utility seeks ISRS relief.

How the other relevant factors affecting regulatory lag are measured is an important and legitimate concern. In measuring those factors the Commission must also bear in mind that the purpose of the ISRS legislation is to provide relief for the utilities, but not to provide a windfall or permit double-dipping.

- c) “The words “the provisions of this rule and” should accordingly be eliminated from section (11) of the Proposed Rule. (See page 2 of Appendix 1).”

#### Staff Response

Staff agrees with this recommended change and suggest that the clarifying language shown in Attachment A be implemented into sections (11) and (13) of the proposed rule. Staff’s suggested changes to section (11) are more extensive than those proposed by the Missouri Gas Utilities. Staff has retained language referencing the provisions “of this rule” as it is Staff’s intent to make recommendations regarding the ISRS per the statutory provisions, as required, while also pointing out any information regarding the ISRS that may need to be addressed in future rate cases, per HB 208 sections 393.1015.8 and 393.1015.10.

- d) “Accordingly, the words “this rule and” should be eliminated from section (13) of the Proposed Rule. (See page 2 of Appendix 1).”

### Staff Response

Staff agrees with this recommended change. Staff suggested that these words be removed in its comments to the rule filed on December 4, 2003, which are reflected in Attachment A.

- e) “Subsection (G), (J), (K), (L), and (M) of section (18) of the Proposed Rule also introduce additional items to be reviewed during the ISRS process that go well beyond those provided for in the ISRS provisions of HB 208.”

### Staff Response

Staff agrees with the suggested changes to subsection (18)(M). Staff suggested that this subsection be modified as the Missouri Gas Utilities suggested in its comments to the rule filed on December 4, 2003, which are reflected in Attachment A. Staff does not agree with the deletion of subsections (G), (J), (K) and (L). The purposes of each of these subsections are described below. The information requested in these subsections is needed to fulfill the overall statutory obligations of the Commission related to the eligible infrastructure replacement and these surcharges. Where this data will not be immediately used in assessing the ISRS amount it will be used in determining prudence of the incurred costs and any possible over earnings, per HB 208 subsections 393.1015.8 and 393.1015.10.

Subsection (G) provides information regarding the age of any infrastructure replaced associated with the ISRS. This information will of interest to Staff working in depreciation during rate cases, during audits of ISRS petitions and to Staff working in gas safety. This information may also be of interest if it appears that the enabling statute is providing incentives to remove and replace older infrastructure at a rate higher than it was being replaced before the ISRS existed.

Subsection (J) provides information regarding the efforts of the utility to seek reimbursement for relocation projects. HB 208 specifically notes in subsection 393.1009(5)(c) that gas utility plant projects are to be accepted only to the degree that the costs related to such projects have not been reimbursed to the gas corporation. This information may also be needed to address the prudence of the utility per HB 208 subsections 393.1015.8 and 393.1015.10.

Subsection (K) provides information regarding how the projects associated with the ISRS are funded, to the degree that such data is available. The Commission is specifically granted authority regarding over earnings complaints under 386.390 as recognized in HB 208 in subsection 393.1015.10. This information may be necessary to assess the

difference between what recovery rate is being granted to the utility under sections 393.1009 to 393.1015, RSMo, and how this recovery rate compares to the actual financing of these projects.

Subsection (L) provides information on any request for proposals issued on projects to replace eligible infrastructure. This information may be needed to address the prudence of the utility on the incurred costs related to infrastructure replacements per HB 208 subsections 393.1015.8 and 393.1015.10.

- f) “There are also several provisions of subsection (O) – specifically subsections (O)3 and (O)6 – that appear to have no place in the rule and may have been inadvertently lifted from the water utility ISRS provisions.”

Staff Response

Subsections (O)3 and (O)6 of the proposed rule were not lifted from the water utility ISRS provisions. These subsections were provided in this list of possible qualifying project categories to be a “catch all” for projects that may have been appropriate but were not specifically required by a rule, regulation, statute or Commission Order. Staff does not object to removal of these subsections. Staff suggested that these subsections be removed in its comments to the rule filed on December 4, 2003, which are reflected in Attachment A.

- g) “Finally, to be consistent with the ISRS provisions of HB 208, subsection (P) of Section 18 should also be modified to provide that the source of any regulatory or other requirement to install facilities may also be a statute, rule or regulation, as well as a Commission Order.”

Staff Response

Staff agrees with these recommended changes. Staff suggested that these words be added in its comments to the rule filed on December 4, 2003, which are reflected in Attachment A.

**2) John B. Coffman, Director, The Office of the Public Counsel, PO Box 2230, Suite 650, Jefferson City, MO 65102, (573) 751-5565**

- a) “Paragraph (9) of 4 CSR 240-3.265 as proposed, sets out the timetable for a gas utility to provide examples of customer notifications and billings for Commission approval. This proposed requirement is consistent with Commission practice in

other rate cases and is essential to ensure accurate information is conveyed to customers who have no alternative provider from whom to receive utility service. Public Counsel would recommend that this paragraph also permit Public Counsel to submit comments on the proposed notice submitted to the Commission.”

#### Staff Response

Staff has considered this suggestion and has revised section (9) of the proposed rule as shown in Attachment A to incorporate the change.

- b) “Paragraph (13) of 4 CSR 240-3.265 as proposed, is consistent with RSMo. 393.1015.2 (4), with minor wording changes that Public Counsel does not believe changes the intent or directive of the statute. However, Public Counsel recommends insertion of the phrase from the statute “pursuant to the provisions of sections 393.1009 to 393.1015” after the word “commission” at the end of the proposed paragraph for clarification.

#### Staff Response

In Staff’s comments filed December 4, 2003, a change to this section of the proposed rule was suggested that provides clarification regarding the need for the ISRS petition and the Commission’s Order to be consistent with the requirements of sections 393.1009 to 393.1015, RSMo. Staff does not believe that additional changes to the proposed rule are necessary to address this comment.

- c) “Paragraph (16) of 4 CSR 240-3.265 as proposed, repeats significant portions of Subsection 393.1015.6 (1) RSMo, however the proposed rule does not reference the consumer protections provisions of Sections 393.1015.8 and 393.1015.9 RSMo. These two statutory sections provide that ISRS charges for plant subsequently found by the Commission to be imprudently incurred or constructed are to be excluded during a general rate proceeding. The proposed rule is unclear as to what happens to ISRS charges associated with imprudent plant. The proposed rule as currently drafted does not recognize this possibility. The statutes anticipate that prudence reviews would occur during general rate cases within three years. Public Counsel believes that these statutory references to rate case reviews of prudence are vital to protect the consumer and as such should be included in the final rule approved by this Commission.”

#### Staff Response

Staff has considered this suggested change and notes that the focus of the proposed rule is on the provisions under which the Commission will handle the filing and processing of

ISRS petitions. What the Office of Public Counsel is noting is a portion of the statute that the Staff was not planning to reproduce in the rule. Staff is not however opposed to reproducing this statutory provision in the proposed rule. A new section (15) has been added to the proposed rule to address this suggested change as shown in Attachment A.

- d) "Paragraph (17) of 4 CSR 240-3.265 as proposed contains significant portions of Subsection 393.1015.6 (2) RSMo, however the proposed rule does not reference the consumer protections provisions of Sections 393.1015.8 and 393.1015.9 RSMo. These two sections provide that ISRS charges for plant subsequently found by the Commission to be imprudently incurred or constructed may be excluded during a general rate proceeding."

#### Staff Response

This concern was addressed in the previous comment above by OPC and has been resolved by the new section (15) shown in Attachment A.

- e) "The new statute does not address what how any reconciled amount (either over recovery or under recovery) that exists after the ISRS has been rebased to zero should be reflected on customer bills. Public Counsel would suggest that language be included to explain how the un-reconciled amount could be handled in a manner consistent with the intent of these statutory provisions. If the reconciled amount does not meet the monetary threshold for implementation of an ISRS, the reconciled monies could be held so that future ISRS filings would be modified by the reconciled amount. If the reconciled amount achieves the monetary threshold was achieved, a new ISRS could be filed to refund or collect monies from the ratepayer as appropriate."

#### Staff Response

Staff has considered this suggested addition to the proposed rule and believes that the provisions of sections (2) and (17) of the rule as originally proposed are sufficient to address this concern. Staff does not suggest that the proposed rule be changed to address this concern.

- f) "Public Counsel believes that additional information which is required under the new statutes are not set out in paragraph 18. Specifically, Section 393.1009 (1)(a) RSMo. requires that accumulated depreciation expense and accumulated deferred income taxes associated with eligible infrastructure system replacements which are included in a currently effective ISRS be recognized in the determination of the ISRS charge. It is not readily apparent to Public Counsel where the proposed



rule incorporates this required information in the list of information the utility is supposed to submit. Therefore, Public Counsel would respectfully recommend that the Commission modify the rule to require that the accumulated depreciation expense and accumulated deferred income taxes associated with each ISRS eligible property be provided as part of the data requirements to be filed with an ISRS application.”

#### Staff Response

Staff received comments similar to this comment from natural gas utilities after submittal of the proposed rule to the Secretary of State for publication in the Missouri Register. These concerns were addressed in the revised language of subsection (18)(O) of the proposed rule as shown in Attachment A.

#### **3) Thomas M. Byrne, Associate General Counsel, Ameren Services Company on Behalf of Union Electric Company d/b/a AmerenUE, One Ameren Plaza, 1901 Chouteau Avenue (MC 1310), PO Box 66149, St. Louis, MO 63166-6149, (314) 554-2514**

- a) “However, AmerenUE does want to separately express its concern to the Commission that great care must be taken when attempting to develop a rule to implement statutory provisions as detailed as those found in H.B. 208. In fact, given the level of detail provided in the statute, there is a good argument that there is no need for any rule at all.”

#### Staff Response

AmerenUE did not provide any specific recommended changes to the rule beyond broad remarks regarding the need for a rule and their agreement with the comments provided by the Missouri Gas Utilities, which have been previously addressed in Staff’s responses. Regarding the comments of AmerenUE on the need for a rule Staff notes that the statute specifies that any Staff report regarding its examination shall be completed not later than 60 days after the petition is filed and that any Commission Order shall be issued such that it becomes effective no later than 120 days after the petition is filed. The statute does not appear to provide for an ability to suspend the utility filing, even if the information provided by the utility is poorly organized and determined to be incomplete after the petition has been accepted. These time lines and a weakened capability to suspend the filing mandate that Staff develop a rule that is explicit in terms of what information will be needed by the Staff. Staff does not have sufficient time to review the filing of the utility, develop data requests (DR), send out DRs, wait 20 days, review DR responses,

develop additional DRs where the responses received were incomplete or brought up additional questions, wait another 20 days and write a Staff report regarding the amount of the ISRS that is appropriate given the information examined by the Staff. The proposed rule basically incorporates Staff's first round of DRs in an effort to shorten the number of steps Staff will need to go through to complete the necessary reviews of the data provided by the utility. The proposed rule also provides notice to the natural gas utilities on what information they should be maintaining for submittal associated with their ISRS filings.

**4) Diana M. Vuylsteke, Attorney w/Bryan Cave, LLP on Behalf of Missouri Industrial Energy Consumers "MIEC", 211 N. Broadway, Suite 3600, St. Louis, MO 63102, (314) 259-2543.**

- a) "The MIEC recommends that the Commission's rules expressly provide the following:

The Monthly ISRS shall vary according to customer class and shall be calculated based on customer numbers as determined during the most recent general rate proceeding of the gas corporation so long as the monthly ISRS for each customer class maintains a proportional relationship equivalent to the proportional relationship of the monthly customer charge for each customer class."

Staff Response

Staff has considered this recommended addition to the proposed rule in light of the provisions of HB 208 subsection 393.1015.5 and agrees with the suggested change. This language has been added as a new section (14) to the suggested changes Staff is recommending be incorporated as shown in Attachment A.

November 3, 2003, MISSOURI REGISTER (Vol. 28, No. 21)

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

**PROPOSED RULE**

**4 CSR 240-3.265 Natural Gas Utility Petitions for Infrastructure System Replacement Surcharges**

*PURPOSE: This rule sets forth the definitions, parameters and procedures relevant to the filing and processing of petitions pertaining to an infrastructure system replacement surcharge (ISRS), including the information that a natural gas utility must provide when it files a petition and associated rate schedules to establish, change or reconcile an ISRS.*

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

(A) Appropriate pretax revenues—the revenues necessary to:

1. Produce net operating income equal to the natural gas utility's weighted cost of capital multiplied by the net original cost of eligible infrastructure system replacements, including recognition of accumulated deferred income taxes and accumulated depreciation associated with eligible infrastructure system replacements that are included in a currently effective infrastructure system replacement surcharge (ISRS);
2. Recover state, federal, and local income or excise taxes applicable to such income; and
3. Recover all other ISRS costs;

(B) Eligible infrastructure system replacements—natural gas utility plant projects that:

1. Replace or extend the useful life of existing infrastructure;
2. Are in service and used and useful;
3. Do not increase revenues by directly connecting the infrastructure replacement to new customers; and
4. Were not included in the natural gas utility's rate base in its most recent general rate case;

(C) Natural gas utility—a gas corporation as defined in section 386.020, RSMo;

(D) ISRS—infrastructure system replacement surcharge;

(E) ISRS costs—annual depreciation expenses, and property taxes that will be due within twelve (12) months of the ISRS filing on the total cost of eligible infrastructure system replacements less annual depreciation expenses and property taxes on any related facility retirements;

(F) ISRS revenues—revenues produced through an ISRS, exclusive of revenues from all other rates and charges;

(G) Natural gas utility plant projects—projects that consist only of the following:

1. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state or federal safety requirements as replacements for existing facilities that have worn out or are in deteriorated condition;
2. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects extending the useful life, or enhancing the integrity of pipeline system components undertaken to comply with state or federal safety requirements; and
3. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state or another entity having the power of eminent domain; provided that the costs related to such projects have not been reimbursed to the natural gas utility.

(2) Pursuant to the provisions of this rule and sections 393.1009 to 393.1015, RSMo, a natural gas utility may file a petition and proposed rate schedules with the commission to establish or change ISRS rate schedules that will allow for the adjustment of its rates and charges to provide for the recovery of costs for eligible infrastructure system replacements; provided that the ISRS, on an annualized basis, must produce ISRS revenues of at least the lesser of one-half of one percent (1/2%) of the natural gas utility's base revenue level approved by the commission in the natural gas utility's most recent general rate case proceeding or one (1) million dollars, but not in excess of ten percent (10%) of the subject utility's base revenue level approved by the commission in the utility's most recent general rate proceeding.

(3) An ISRS, and any future changes thereto, shall be calculated and implemented in accordance with the provisions of this rule and sections 393.1009 to 393.1015, RSMo.

(4) ISRS revenues shall be subject to refund based upon a finding and order of the commission, to the extent provided in subsections (5) and (8) of section 393.1015, RSMo.

(5) The commission shall not approve an ISRS for a natural gas utility that has not had a general rate proceeding decided or dismissed by issuance of a commission order within the past three (3) years, unless that utility has filed for or is the subject of a new general rate proceeding.

(6) In no event shall a natural gas utility collect an ISRS for a period exceeding three (3) years unless it has filed for or is the subject of a new general rate proceeding; provided that the ISRS may be collected until the effective date of new rate schedules established as a result of the new general rate proceeding, or until the subject general rate proceeding is otherwise decided or dismissed by issuance of a commission order without new rates being established.

(7) Upon the filing of a petition seeking to establish or change an ISRS, the commission will provide notice of the filing.

(8) The natural gas utility shall provide the following notices to its customers:

- (A) An initial, one (1)-time notice to all potentially affected customers, such notice being sent to customers no later than when customers will receive their first bill that includes an ISRS, explaining the subject utility's infrastructure system replacement program, ~~explaining how it will calculate its ISRS~~, explaining how its ISRS will be applied to its various customer classes and identifying the statutory authority under which it is implementing its ISRS;
- (B) An annual notice to affected customers each year that an ISRS is in effect explaining the continuation of its infrastructure system replacement program and the resulting ISRS; and
- (C) ~~A line item~~ surcharge description on all affected customer bills, which will identify the existence and amount of the ISRS on the bills.

(9) Within twenty (20) days of the natural gas utility's filing of a petition to establish an ISRS, the subject utility shall submit the following to the commission for approval, ~~the office of the public counsel may, within ten (10) days of the gas utility's filing of this information, submit comments regarding these notices to the commission:~~

- (A) An example of the initial, one (1)-time notice required by subsection (8)(A) of this rule;
- (B) An example of the annual notice required by subsection (8)(B) of this rule; and
- (C) An example customer bill showing how the ISRS will be separately identified on affected customers' bills in accordance with subsection (8)(C) of this rule.

(10) When a natural gas utility files a petition pursuant to the provisions of this rule and sections 393.1009 to 393.1015, RSMo, the commission shall conduct an examination of the proposed ISRS.

(11) The staff of the commission may examine the information of the natural gas utility provided pursuant to this rule and sections 393.1009 to 393.1015, RSMo, to confirm that the underlying costs are in accordance with the provisions of this rule ~~and sections 393.1009 to 393.1015, RSMo~~, and to confirm proper calculation of the proposed ISRS, and may submit a report regarding its examination to the commission not later than sixty (60) days after the natural gas utility files its petition. The staff shall not examine any other revenue requirement or ratemaking issues in its consideration of the petition or associated proposed rate schedules.

(12) The commission may hold a hearing on the petition and the associated proposed rate schedules and shall issue an order to become effective not later than one hundred twenty (120) days after the natural gas utility files the petition.

(13) If the commission finds that a petition complies with the requirements of ~~this rule and~~ sections 393.1009 to 393.1015, RSMo, the commission shall enter an order authorizing the natural gas utility to impose an ISRS that is sufficient to recover appropriate pretax revenues, as determined by the commission.

(14) The Monthly ISRS shall vary according to customer class and shall be calculated based on customer numbers as determined during the most recent general rate proceeding of the natural gas utility so long as the monthly ISRS for each customer class maintains a proportional relationship equivalent to the proportional relationship of the monthly customer charge for each customer class.

(15) Commission approval of a petition, and any associated rate schedules, to establish or change an ISRS pursuant to sections 393.1009 to 393.1015, RSMo, shall in no way be binding upon the Commission in determining the ratemaking treatment to be applied to eligible infrastructure system replacements during a subsequent general rate proceeding when the commission may undertake to review the prudence of such costs. In the event the commission disallows, during a subsequent general rate proceeding, recovery of costs associated with eligible infrastructure system replacements previously in an ISRS, the natural gas utility shall offset its ISRS in the future as necessary to recognize and account for any such overcollections. Nothing in this rule or section 393.1015, RSMo, shall be construed as limiting the authority of the Commission to review and consider infrastructure system replacement costs along with other costs during any general rate proceeding of any natural gas utility.

(164) A natural gas utility may effectuate a change in an ISRS no more often than two (2) times during every twelve (12)-month period, with the first such period beginning on the effective date of the rate schedules that establish an initial ISRS. For

the purposes of this section, an initial ISRS is the first ISRS granted to the subject utility or an ISRS established after an ISRS is reset to zero pursuant to the provisions of section (186) of this rule.

(175) At the end of each twelve (12)-month period that an ISRS is in effect, the natural gas utility shall reconcile the differences between the revenues resulting from the ISRS and the appropriate pretax revenues as found by the commission for that period and shall submit the reconciliation and proposed ISRS rate schedule revisions to the commission for approval to recover or refund the difference, as appropriate.

(186) A natural gas utility that has implemented an ISRS shall file revised ISRS rate schedules to reset the ISRS to zero when new base rates and charges become effective following a commission order establishing customer rates in a general rate proceeding that incorporates eligible costs previously reflected in an ISRS into the subject utility's base rates.

(197) Upon the inclusion of eligible costs previously reflected in an ISRS into a natural gas utility's base rates, the subject utility shall immediately thereafter reconcile any previously unreconciled ISRS revenues as necessary to ensure that revenues resulting from the ISRS match, as closely as possible, the appropriate pretax revenues as found by the commission for that period.

(2048) At the time that a natural gas utility files a petition with the commission seeking to establish, change or reconcile an ISRS, it shall submit proposed ISRS rate schedules and its supporting documentation regarding the calculation of the proposed ISRS with the petition, and shall serve the office of the public counsel with a copy of its petition, its proposed rate schedules and its supporting documentation. The subject utility's supporting documentation shall include workpapers showing the calculation of the proposed ISRS, and shall include, at a minimum, the following information:

- (A) The state, federal, and local income or excise tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;
- (B) The regulatory capital structure used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that capital structure;
- (C) The cost rates for debt and preferred stock used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those cost rates;
- (D) The cost of common equity used in calculating the proposed ISRS, and an explanation of the source of and the basis for using that equity cost;
- (E) The property tax rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those tax rates;
- (F) The depreciation rates used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those depreciation rates;
- (G) An explanation of how long any infrastructure that was replaced associated with the ISRS had been installed when it was removed or abandoned;
- (H) The applicable customer class billing units used in calculating the proposed ISRS, and an explanation of the source of and the basis for using those billing units;
- (I) An explanation of how the proposed ISRS is being proportioned between affected customer classes, if applicable;
- (J) An explanation of the efforts of the natural gas utility to quantify and to seek reimbursement of any costs ~~associated with~~ incurred for relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States, this state, a political subdivision of this state, or another entity having the power of eminent domain, which could offset the requested ISRS revenues;
- (K) An explanation of how the infrastructure replacement projects associated with the ISRS are being funded, including the amount of any debt and the interest rate on that debt;
- (L) An explanation of the request for proposal (RFP) process, or the reasons for not using an RFP process, used to establish what entity performed the infrastructure replacement projects associated with the proposed ISRS;
- (M) An explanation of how the infrastructure replacement projects associated with the ISRS do not increase revenues by ~~directly connecting the infrastructure replacement to increasing pipeline capacity for service of, or interconnection of,~~ new customers;
- (N) An explanation of when the infrastructure replacement projects associated with the ISRS were completed and became used and useful;
- (O) For each project for which recovery is sought, the net original cost of the infrastructure system replacements (original cost of eligible infrastructure system replacements, net of the accumulated deferred income taxes and the accumulated depreciation associated with the types of property listed below, that are currently included in rates and for property included in a currently effective ISRS, the accumulated deferred taxes and the accumulated depreciations associated with the projects included in that ISRS) ~~total cost less net book value of any related facility retirements~~, the amount of related ISRS costs that are eligible for recovery during the period in which the ISRS will be in effect, and a breakdown of those costs identifying which of the following project categories apply and the specific requirements being satisfied by the infrastructure replacements for each:

1. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with state safety requirements;

2. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to comply with federal safety requirements;
- ~~3. Mains, valves, service lines, regulator stations, vaults, and other pipeline system components installed to replace existing facilities that have worn out or are in deteriorated condition;~~
- ~~34. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects undertaken to comply with state safety requirements;~~
- ~~45. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects undertaken to comply with federal safety requirements;~~
- ~~6. Main relining projects, service line insertion projects, joint encapsulation projects, and other similar projects extending the useful life, or enhancing the integrity of pipeline system components;~~
- ~~57. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of the United States;~~
- ~~68. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of this state;~~
- ~~79. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of a political subdivision of this state; and~~
- ~~840. Facilities relocations required due to construction or improvement of a highway, road, street, public way, or other public work by or on behalf of an entity other than the United States, this state, or a political subdivision of this state, having the power of eminent domain;~~

(P) For each project for which recovery is sought, the statute, commission order, rule, or regulation, if any, requiring the project; a description of the project; the location of the project; what portions of the project are completed, used and useful; what portions of the project are still to be completed; and the beginning and planned end date of the project.

(2149) In addition to the information required by section (4208) of this rule, the natural gas utility shall also provide the following information when it files a petition with the commission seeking to establish, change or reconcile an ISRS:

- (A) A description of all information posted on the subject utility's website regarding the infrastructure system replacement surcharge and related infrastructure system replacement projects; and
- (B) A description of all instructions provided to personnel at the subject utility's call center regarding how those personnel should respond to calls pertaining to the ISRS.

**AUTHORITY:** sections 386.250 and 393.140, RSMo 2000, and 393.1015.11, RSMo Supp. 2003. Original rule filed Sept. 19, 2003.

**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 is expected to cost private entities approximately three hundred twenty-nine thousand, two hundred thirty dollars (\$329,230) in the first year, and one hundred thirty eight thousand, six hundred fifty dollars (\$138,650) each year thereafter, for the life of the rule. These costs may vary with inflation. A detailed fiscal note, which estimates the cost of compliance with this rule, has been filed with the secretary of state.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file comments in support of or in opposition to this proposed rule with the Missouri Public Service Commission, Dale Hardy Roberts, 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 December 4, 2003, and should include a reference to Commission Case No. GX-2004-0090. If comments are submitted via a paper filing, an original and eight (8) copies of the comments are required. Comments may also be submitted via a filing using the commission's electronic filing and information system at <http://www.psc.state.mo.us/efis.asp>. A public hearing regarding this proposed rule is scheduled for December 10, 2003, at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, 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 or TDD Hotline 1-800-829-7541.

### Calculations Related to Proposed Language for 3.265

#### Parameters for Calculations

1	Balance of All Plant Eligible for Recovery thru an ISRS at End of Last Rate Case	50,000,000
2	Original Cost of Annual Gas Utility Plant Projects Eligible for Recovery thru an ISRS	10,000,000
3	Annual Plant Retirements Related to Gas Plant Projects Eligible for Recovery thru an ISRS	1,000,000
4	Years Elapsed Since Last Rate Case	3
5	Composite Depreciation Rate	2.0%
6	Composite Property Tax Rate	1.2%
7	Composite Deferred Income Tax Rate	8.0%

#### Calculation of Depreciation Expenses & Property Taxes

1	Original Cost of Gas Utility Plant Eligible for Recovery thru an ISRS 10,000,000 annual additions x 3 years	30,000,000
2	Plant Retirements Related to Gas Plant Projects Eligible for Recovery thru an ISRS 1,000,000 annual retirements x 3 years	3,000,000
3	Net Increase in Gas Utility Plant Projects Eligible for Recovery thru an ISRS original cost of additions less related retirements	27,000,000
6	<b>Recoverable Depreciation Expense</b> (27,000,000 x .02)	<b>540,000</b>
7	<b>Recoverable Property Taxes</b> (27,000,000 x .012 and assumes that all will be paid within 12 months of ISRS petition filing date)	<b>324,000</b>
8	<b>Total Recoverable "ISRS Costs"</b> depreciation expense + property taxes	<b>864,000</b>

#### Calculation of Net Original Cost of ISRS Projects

1	Balance of All Plant Eligible for Recovery thru an ISRS at End of Last Rate Case	50,000,000
2	Accumulated Depreciation on All Plant Eligible for Recovery thru an ISRS Since the End of the Last Rate Case 50,000,000 x .02 x 3	3,000,000
3	Accumulated Deferred Taxes on All Plant Eligible for Recovery thru an ISRS Since the End of the Last Rate Case 50,000,000 x .08 x 3	12,000,000
4	ISRS Net Original Cost to Use for Calculating Allowable Increase in Net Operating Income original cost of eligible gas utility plant projects less accumulated depreciation and accumulated deferred taxes	15,000,000