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August 25, 2003

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**Re: Case No. WX-2004-0080**

Dear Mr. Roberts:

Provided herewith for filing on behalf of Missouri-American Water Company ("MAWC"), please find in electronic format MAWC's Application for Rehearing and/or Motion for Reconsideration and Motion for Stay.

A copy of this filing is being provided to all parties of record.

Please see that this filing is brought to the attention of the appropriate Commission personnel.

I thank you in advance for your cooperation in this matter.

Sincerely,

BRYDON, SWEARENGEN & ENGLAND, P.C.

By:

Dean L. Cooper

DLC/llv

Attachment

cc: General Counsel  
Office of the Public Counsel

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the Proposed Emergency	)	
Rule to Establish a Procedure for Water	)	Case No. WX-2004-0080
Utilities to Establish an Infrastructure	)	
System Replacement Surcharge	)	

**APPLICATION FOR REHEARING  
AND/OR MOTION FOR RECONSIDERATION  
AND MOTION FOR STAY**

COMES NOW Missouri-American Water Company (“MAWC”), pursuant to § 386.500 RSMo 2000 and 4 CSR 240-2.160, and for its Application for Rehearing and/or Motion for Reconsideration and Motion for Stay respectfully states as follows to the Missouri Public Service Commission (“Commission”):

**BACKGROUND**

On August 7, 2003, the Commission issued its Order Finding Necessity for Emergency Rulemaking (“Order Finding Necessity”) which authorized the Commission’s Staff to proceed with drafting an emergency rule for the Commission’s consideration, said rule to address the procedure for filing an Infrastructure Replacement Surcharge by a water utility which surcharge was authorized by House Bill 208 enacted by the 92nd General Assembly and signed into law by the Governor on July 9, 2003. The Commission’s Order Finding Necessity purported to become effective on August 7, 2003, the same day that it was issued.

Thereafter, on August 14, 2003, the Commission, by memorandum decision (the “Adopting Order”), issued its authorization to file emergency rule for 4 CSR 240-3.650 (“the Emergency Rule”) with the Secretary of State and the Joint Committee on Administrative Rules. The Emergency Rule, on its face, purports to become effective on August 28, 2003. However,

the Adopting Order, dated August 14, 2003, did not bear an effective date and therefore pursuant to Section 386.490.3 said order is not effective until September 13, 2003.

It is well-established that the Commission, as an administrative body and a servant of the legislature which created it, can only administer the law as given to it by the Missouri General Assembly. In promulgating the emergency rule which is the subject of this matter, the Commission has violated this fundamental legal principle as it has gone well beyond the scope of House Bill 208, the legislation which authorizes the involved ISRS.

The comprehensive ISRS provisions of House Bill 208 were developed by the legislature as a way to streamline the regulatory process associated with rate recovery of certain non-revenue producing infrastructure expenditures by water utilities. In essence, this streamlining occurs by enabling water utilities to obtain rate recovery of such expenditures, subject to a number of conditions designed to protect the interests of customers, without the necessity of filing a costly and time-consuming full-blown general rate case. With the ISRS provisions, MAWC expects to need to file a general rate proceeding every 36 months, assuming reasonable regulatory treatment. Reducing rate case frequency means lower transaction costs for MAWC, as well as the Commission itself and other regulatory participants, and translates into lower rates than would otherwise be the case for MAWC's customers.

## **REHEARING**

Both the Adopting Order and the Emergency Rule, collectively marked Appendix 1, attached hereto and made a part hereof for all purposes are unlawful, unjust, unreasonable, arbitrary, capricious, involve an abuse of discretion, are unsupported by competent and substantial evidence upon the whole record, are in excess of statutory authority, and are

unconstitutional in all material matters of fact and law, individually or cumulatively, or both, in the particulars hereinafter stated for the following reasons and in the following respects:

The Commission's Order Finding Necessity which authorized the Commission Staff to draft the Emergency Rule for Commission consideration purported to become effective on August 7, 2003, the same day that it was issued. A Commission order which is made effective on the same day it is issued is unlawful on its face because it denies the opportunity for an aggrieved party to prepare and file an application for rehearing. *See State ex rel. St. Louis County v. Public Service Common*, 228 S.W.2d 1, 2 (Mo. 1950) (holding that a Commission order effective the day after it was issued was unlawful because it deprived those interested of the reasonable opportunity to prepare and file applications for rehearing). Thus, the Commission's Order Finding Necessity which initiated the drafting of the Emergency Rule was void on its face thereby rendering void all subsequent Commission actions concerning the proposed emergency and the Emergency Rule.

Further, the Commission's August 14, 2003 Adopting Order did not bear an effective date and therefore, pursuant to Section 386.490.3, RSMo 2000, is not effective until September 13, 2003, and the Emergency Rule may not be filed with the Secretary of State and Joint Commission on Administrative Rules until that date.

Additionally, Section 536.025, which governs emergency rulemaking, states that emergency rules may only be promulgated if the state agency:

- (1) Finds that an immediate danger to the public health, safety or welfare requires emergency action or the rule is necessary to preserve a compelling governmental interest that requires an early effective date as permitted pursuant to this section;

- (2) Follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances;
- (3) Follows procedures which comply with the protections extended by the Missouri and United States Constitutions; and
- (4) Limits the scope of such rule to the circumstances creating an emergency and requiring emergency action.

The subject Emergency Rule, at a minimum, violates subsections (1), (2) and (3) described above for the following reasons:

- A. Section 536.025.1(1) -- In order to use the emergency rulemaking process, the Commission must find that “immediate danger to the public health, safety or welfare requires emergency action or the rule is necessary to preserve a compelling governmental interest.” section 536.025(1), RSMo 2000. No such immediate danger exists to support the Emergency Rule.

No members of the public or utilities will be harmed by delay of this Emergency Rule. Consumer protections are a part of and found in the House Bill 208 language. Thus, the protection of the public was addressed in the legislative process. The Emergency Rule adds nothing new as to these issues. Perhaps most obviously there is no emergency to justify the Emergency Rule as the Emergency Rule is in great part a restatement of the House Bill 208 language (with some exceptions highlighted below). This is because House Bill 208 is sufficiently detailed to allow for implementation of the ISRS without additional rules. In fact section 393.1006.10 contemplates that the rule may be implemented without rules

as it provides that the Commission may only make rules to the extent that they “do not delay the implementation of” House Bill 208. Thus, there is no “immediate danger” or “compelling government interest” to support the use of the emergency rulemaking process.

- B. Section 536.025.1(2) - The first version of the Emergency Rule provided to MAWC was attached to an e-mail from the Commission Staff on August 12, 2003, asking that the Company provide information concerning fiscal impacts by August 18, 2003. Thereafter, as stated above, the Commission issued its Adopting Order on August 14, 2003, before the Company had an opportunity to provide comments.

There has been no opportunity for MAWC, or any other party, to provide the Commission with comments concerning the Emergency Rule. Therefore, the Commission has not used procedures “calculated to assure fairness to all interested persons and parties under the circumstances.” The Emergency Rule should not be published until interested parties have had an opportunity to provide comments to the Public Service Commission as to the lawfulness of the Emergency Rule.

- C. Section 536.025.1(3) – The subject Emergency Rule also failed to comply with the protections extended by the Missouri Constitution. Legislative powers rest in the Missouri General Assembly pursuant to the Missouri Constitution. The Missouri Public Service Commission has no power except that granted by its creator, the General Assembly. *State ex rel. Springfield Warehouse & Transfer*

*Co. et al. v. Public Service Commission*, 225 S.W.2d 792, 794 (Mo. App. 1949).

The adoption of a rule by the Public Service Commission “can only be legally authorized upon the grounds that the Legislature has directly, or by necessary or reasonable implication, authorized the same.” *Id.* The Public Service Commission “has no power adopt a rule, or follow a practice, which results in nullifying the expressed will of the Legislature.” *Id.* “The Legislature alone has the power to declare the general law relating to [a] subject, and [the Commission] must observe same.” *Id.*

House Bill 208 does provide the Commission with some rulemaking authority as to this subject matter. However, House Bill 208 (393.1006.10) specifically provides that the Commission only has authority to promulgate rules “to the extent such rules are consistent with, and do not delay the implementation of” the ISRS provisions. Thus, rules that are inconsistent with the provisions of House Bill 208 are beyond the authority delegated by the General Assembly and violate the separation of powers established by the Missouri Constitution. The subject Emergency Rule is inconsistent with House Bill 208 and violative of the Missouri Constitution in the following respects:

- (1) Subsection (G) of the Emergency Rule changes the meaning of “net original cost of eligible infrastructure system replacements” as used in section 393.1000(1)(a) and therefore is unlawful. In fact, various net original cost/ depreciation definitions were discussed during the legislative

process. Any subsequent attempt to change the definitions used by the General Assembly is unlawful.

- (2) Section (13) of the Emergency Rule provides that a water corporation may “effectuate a change in an ISRS no more often than two times during the twelve months following the effective date of the subject ISRS rate schedules.” This is inconsistent with the statutory language, found in section 393.1006.3, which provides that “a water corporation may effectuate a change in its rate pursuant to this section no more often than two times every twelve months,” and therefore violates section 393.1006.10.
- (3) Subsections (M) and (N) of section (17) of the Emergency Rule introduce additional items to be reviewed during the ISRS process beyond those provided for in the ISRS provisions of House Bill 208. This information is completely irrelevant to the ISRS process and its administration and produces costs with no commensurate benefit. These provisions of the proposed rule are inconsistent with section 393.1006.2(2) of House Bill 208 and therefore unlawful.
- (4) Sections (7) and (8) of the Emergency Rule impose notice requirements and line item billing not found in the ISRS provisions of House Bill 208. In fact, line-item billing of the ISRS would have been required under an earlier version of the ISRS bill (See SB 125), but was removed prior to final passage. Because the line-item billing requirement was removed from



the ISRS provisions prior to the passage of House Bill 208, the line-item billing requirement in the Emergency Rule is inconsistent with the statute and unlawful. Also, section 393.1006.10 provides that no rules promulgated regarding the ISRS provisions may delay the implementation of sections 393.1009 to 393.1015. Thus, the requirement in the Emergency Rule to provide customers an initial notice, and annual notices thereafter, regarding ISRS filings is unlawful both because it is inconsistent with House Bill 208 and because it may delay the implementation of the statute.

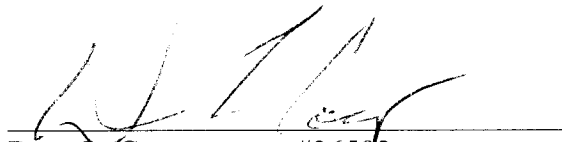
- (5) Sections (1) through (6), (9) through (12) and (14) through (16) of the Emergency Rule attempt to restate certain of the ISRS provisions contained in House Bill 208, but do not do so word for word. The provisions are therefore inconsistent with House Bill 208 and unlawful.
- (6) The Commission does not have authority to promulgate the Emergency Rule. Its only authority to promulgate rules concerning ISRS comes from House Bill 208. As House Bill 208 does not become effective until August 28, 2003, the Commission does not now have such authority, nor did it have such authority at the time it issued the Order Finding Necessity and the Adopting Order.

## STAY

Because the development of the Emergency Rule has thus far provided for little, if any, Company input, MAWC asks that the Commission stay the effectiveness of the Emergency Rule in order to provide the opportunity to consider the issues raised herein.

WHEREFORE, MAWC respectfully requests the Commission to hold a hearing and/or grant a rehearing and/or reconsideration herein with respect to its Adopting Order promulgating the Emergency Rule, the Order Finding Necessity and the Emergency Rule and, stay the effective date of the Emergency Rule.

Respectfully submitted,

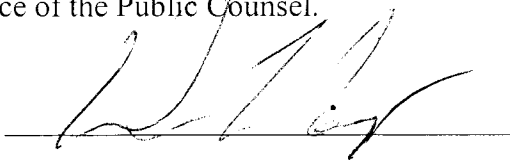


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ATTORNEYS FOR  
MISSOURI-AMERICAN WATER COMPANY

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered, on this 25<sup>th</sup> day of August, 2003, to the Commission's General Counsel and the Office of the Public Counsel.



## MEMORANDUM

Dale Hardy Roberts, Secretary

**DATE:** August 14, 2003

Authorization to File Emergency Rule 4 CSR 240-3.650 with the Office of the Secretary of State

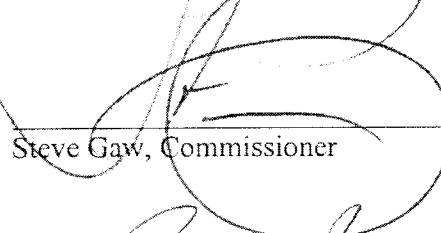
**CASE NO.:** WX-2004-0080

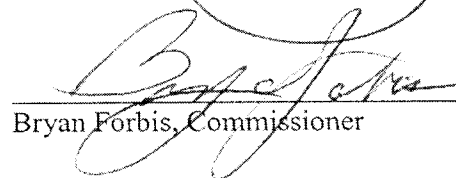
The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file with the Office of the Secretary of State, to-wit:

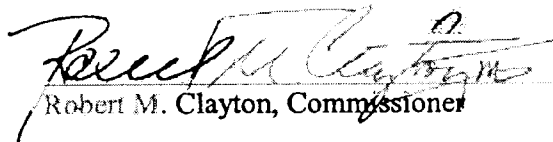
4 CSR 240-3.650 – Water Utility Petitions for Infrastructure System Replacement Surcharges – Emergency Rule

  
Kelyin Simmons, Chair

  
Connie Murray, Commissioner

  
Steve Gaw, Commissioner

  
Bryan Forbis, Commissioner

  
Robert M. Clayton, Commissioner

August 21, 2003

Honorable Matt Blunt  
Secretary of State  
600 West Main Street  
Jefferson City, Missouri 65101

Joint Committee on Administrative Rules  
Room B-8A  
Capitol Building  
Jefferson City, Missouri 65101

Dear Secretary Blunt:

**Attention: Administrative Rules Division – Rule 4 CSR 240-3.650 (Water Utility Petitions for Infrastructure System Replacement Surcharges)**

**CERTIFICATION OF ADMINISTRATIVE RULE**

I do hereby certify that the attached is an accurate and complete copy of the emergency rule lawfully submitted by the Missouri Public Service Commission on this 15<sup>th</sup> day of August 2003.

I further certify that the emergency rule is supported by a compelling governmental interest, the reasons for which are stated in the emergency statement.

Statutory authority: Sections 386.250 and 393.140, RSMo 2000, and Section 393.1006.10, S.S. S.C.S. HB 208, effective August 28, 2003.

Effective date of the rule: August 28, 2003.

Missouri Public Service Commission Case No.: WX-2004-0080.

August 21, 2003

Page 2

If there are any questions, please contact: Keith R. Krueger, Deputy General Counsel  
Missouri Public Service Commission  
200 Madison Street  
P.O. Box 360  
Jefferson City, Missouri 65102  
(573) 751-4140

**BY THE COMMISSION**

**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

Enclosures: Proposed Emergency Rule 4 CSR 240-3.650 (Water Utility Petitions for Infrastructure System Replacement Surcharges); electronic copy on 3.5" diskette; Rule Transmittal.

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

**EMERGENCY RULE**

**4 CSR 240-3.650 Water 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 an eligible water utility must provide when it files a petition and associated rate schedules to establish, change or reconcile an ISRS.*

*EMERGENCY STATEMENT: This emergency rule establishes 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 an eligible water utility must provide when it files a petition and associated rate schedules to establish, change or reconcile an ISRS. This rulemaking was authorized by the 92nd General Assembly in House Bill 208, which Governor Holden signed on July 16, 2003 and which becomes effective August 28, 2003. In order to permit the commission to fulfill its statutory duties within the 120-day timeframe set out in the law, the commission finds a compelling governmental interest exists to immediately implement the rule on the law's effective date. A proposed rule, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Commission believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed August 15, 2003, effective August 28, 2003 and expires February 24, 2004.*

(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 eligible water 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 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 - water 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;

4. Were not included in the eligible water utility's rate base in its most recent general rate case; and

5. Were made in a county with a charter form of government and with more than one million inhabitants;

(C) Eligible water utility - a water corporation as defined in section 386.020(58), RSMo, that provides service to more than ten thousand customers in a county with a charter form of government and with more than one million inhabitants;

(D) ISRS - infrastructure system replacement surcharge;

(E) ISRS costs - depreciation expenses, and property taxes that will be due within twelve months of the ISRS filing;

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

(G) Water utility plant projects - projects that consist only of the following:

1. Mains, and associated valves and hydrants, installed as replacements for existing facilities that have worn out or are in deteriorated condition;

2. Main cleaning and relining projects; 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 eligible water utility.

(2) Pursuant to the provisions of this rule and sections 393.1000 to 393.1006, RSMo, an eligible water utility may file a petition 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 an ISRS, on an

annualized basis, must produce ISRS revenues of at least one million dollars but not in excess of ten percent 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 393.1000 to 393.1006, 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 393.1006, RSMo.

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

(6) In no event shall an eligible water utility collect an ISRS for a period exceeding three 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 eligible water utility shall provide the following notices to its customers:

(A) An initial, one-time notice to all potentially affected customers, with such notice to be 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 eligible water utility's filing of a petition to establish an ISRS, the subject utility shall submit the following to the commission for approval:

(A) An example of the initial, one-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 an eligible water utility files a petition pursuant to the provisions of this rule, the commission shall conduct an examination of the proposed ISRS.

(11) The staff of the commission may examine information of the eligible water utility to confirm that the underlying costs are in accordance with the provisions of this rule and sections 393.1000 to 393.1006, 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 days after the eligible water 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 days after the eligible water utility files the petition.

(13) If the commission finds that a petition complies with the requirements of this rule and sections 393.1000 to 393.1006, RSMo, the commission shall enter an order authorizing the eligible water utility to impose an ISRS that is sufficient to recover appropriate pretax revenues, as determined by the commission.

(14) An eligible water utility may effectuate a change in an ISRS no more often than two times during every twelve-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 (16) of this rule.

(15) At the end of each twelve-month period that an ISRS is in effect, the eligible water 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.

(16) An eligible water 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.

(17) Upon the inclusion of eligible costs previously reflected in an ISRS in an eligible water 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.

(18) At the time that an eligible water 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) The net original cost of the infrastructure system replacements (total cost less net book value of any related facility retirements), and 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 eligible replacements identified by work order or cost center for each of the following project categories;

1. Mains, and associated valves and hydrants, installed as replacements for existing facilities that have worn out or are in deteriorated condition;

2. Main cleaning and relining projects;

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;

4. 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;

5. 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

6. 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;

(H) The applicable customer class billing determinants used in calculating the proposed ISRS, and an explanation of source of and the basis for using those billing determinants;

(I) An explanation of how the customers to whom the proposed ISRS will apply are benefiting from the water utility plant projects that will be recovered through the ISRS;

(J) An explanation of how the proposed ISRS is being prorated between affected customer classes, if applicable;



(K) An explanation of how the proposed ISRS is being applied in a manner consistent with the customer class cost-of-service study recognized by the commission in the subject utility's most recent general rate proceeding, if applicable; and

(L) An explanation of how the proposed ISRS is being applied consistent with the rate design methodology utilized to develop the subject utility's rates resulting from its most recent general rate proceeding;

(M) An explanation of the efforts to quantify and seek reimbursement for any costs incurred for 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, which could offset the requested ISRS revenues; and

(N) An explanation of how the projects associated with the ISRS are being funded, including the amount of any short-term debt and the interest rate on that debt.

(19) In addition to the information required by section (18) of this rule, the eligible water 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 section 393.1006.10, HB208, effective August 28, 2003. Emergency rule filed August 15, 2003, effective August 28, 2003, expires February 24, 2004.*