

MATT BLUNT

Secretary of State
Administrative Rules Division
RULE TRANSMITTAL

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MAR 02 2004

**SECRETARY OF STATE
ADMINISTRATIVE RULES**

COPY

A "SEPARATE" rule transmittal sheet **MUST** be used for EACH individual rulemaking.

A. Rule Number 4 CSR 240-3.650
 Diskette File Name Adopted 4 CSR 240-3.650 Final
 Name of person to call with questions about this rule:
 Content Keith Krueger Phone 573-751-4140 FAX 573-751-9285
 Data entry Lesli Belt Phone 573-751-7499 FAX Same as above
 Email address keith.krueger@psc.mo.gov
 Interagency mailing address Governor Office Building, 200 Madison St., 8th Floor, Jefferson City, MO
 Statutory Authority Sections 336.250, 393.140 and 393.1006.1 Current RSMo date 2003
 Date filed with the Joint Committee on Administrative Rules Exempt per Sections 536.024 and 536.037, RSMo 2000, and Executive Order No. 97-97 (June 27, 1997)

B. CHECK, IF INCLUDED:

- | | |
|--|---|
| ☒ This transmittal completed | ☐ Incorporation by reference materials, if any |
| ☒ Cover letter | ☐ Authority with history of the rule |
| ☐ Affidavit | ☐ Public cost |
| ☐ Forms, number of pages <u> </u> | ☐ Private cost |
| ☐ Fiscal notes | ☐ Hearing and comment period |

C. RULEMAKING ACTION TO BE TAKEN

- ☐ Emergency rulemaking, (check one) ☐ rule ☐ amendment ☐ rescission ☐ termination
MUST include effective date
- ☐ Proposed Rulemaking (check one) ☐ rule ☐ amendment ☐ rescission
☒ Order of Rulemaking (check one) ☒ rule ☐ amendment ☐ rescission ☐ termination
MUST complete page 2 of this transmittal
- ☐ Withdrawal (check one) ☐ rule ☐ amendment ☐ rescission ☐ emergency
☐ Rule action notice
☐ In addition
☐ Rule under consideration

D. SPECIFIC INSTRUCTIONS: Please indicate any special instructions (e.g., publication date preference, identify material to be incorporated by reference, or forms included herein).

Please Publish in the next available issue of the
Missouri Register.

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E. ORDER OF RULEMAKING: Rule Number 4 CSR 240-3.650

1a. Effective Date for the Order

☒ Statutory 30 days

Specific date _____

1b. Does the Order of Rulemaking contain changes to the rule text?

☒ YES

☐ NO

1c. If the answer is YES, please complete section F. If the answer is NO, **STOP** here.

F. Please provide a complete list of the changes in the rule text for the order of rulemaking, indicating the specific section, subsection, paragraph, subparagraph, part, etc., where each change is found. It is especially important to identify the parts of the rule that are being deleted in this order of rulemaking. This is not a reprinting of your order, but an explanation of what sections, subsections, etc. have been changed since the original proposed rule was filed.

(Start text here. If text continues to a third page, insert a continuous section break and, in section 3, delete the footer text. DO NOT delete the header, however.)

Subsection (1) (A) is changed, by inserting a parenthetical definition in Paragraph 1.

Subsection (1) (I) is changed by inserting the word "annual" in the first line and adding a long phrase at the end of the subsection.

Section (7) is changed by deleting the word "provide" and substituting the word "publish."

Section (8) is changed by adding a long phrase at the end of the introductory paragraph.

Subsection (8) (A) is changed by deleting the words "explaining how it will calculate its ISRS."

Subsection (8) (C) is changed by deleting the words "line item" in the first line and by deleting the words "will identify" and substituting therefor the words "informs the customers of."

Section (9) is changed by inserting the word "items" after "following," and by adding the words "or rejection" and an additional long clause at the end of the introductory paragraph.

Subsection (9) (A) is changed by deleting the words "initial, one (1) time."

Subsection (9) (B) is changed by deleting the word "annual."

Subsection (9) (C) is changed by deleting the words "separately identified" and substituting the word "described."

Section (10) is changed by adding "and sections 393.1000 to 393.1006, RSMo" near the middle of the sentence.

Section (11) is changed by inserting a phrase after "eligible water utility," by deleting a phrase after "the underlying costs," by inserting "related to and the" before "proper calculation of," and by making related grammatical changes.

Section (13) is changed by deleting "this rule and."

An entirely new Section (14) is inserted after Section (13).

The former Section (14) is renumbered as Section (15), and the words "section (16)" therein are changed to "section (17)."

The former Section (15) is renumbered as Section (16).

The former Section (16) is renumbered as Section (17), and an additional sentence is added at the end of the section.

The former Section (17) is renumbered as Section (18), and an additional phrase is added at the end of the section.

The former Section (18) is renumbered as Section (19).

The former Subsection (18) (G), now designated as Section (19) (G), is changed by inserting a long phrase in the first line, deleting the material in parentheses, deleting the word "related" and the phrase that follows "ISRS costs," inserting "related to the eligible replacements," and making related grammatical changes.

The former Subsection (18) (H), now designated as Section (19) (H), is changed by inserting "the" before "source of."

The former Subsection (18) (M) is deleted.

The former Subsection (18) (N) is deleted.

An entirely new Subsection (19) (M) is added.

An entirely new Subsection (19) (N) is added.

An entirely new Section (20), including Subsections (20) (A), (B) (C), and (D), is added.

The former Section (19) is renumbered as Section (21), and the reference therein to "section (18)" is changed to "section (19)."



Commissioners

STEVE GAW
Chair

CONNIE MURRAY

ROBERT M. CLAYTON III

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.state.mo.us>

ROBERT J. QUINN, JR.
Executive Director

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

March 2, 2004

Matt Blunt
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Blunt,

Re: 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 order of rulemaking lawfully submitted by the Department of Economic Development, Public Service Commission on this 2nd day of March 2004.

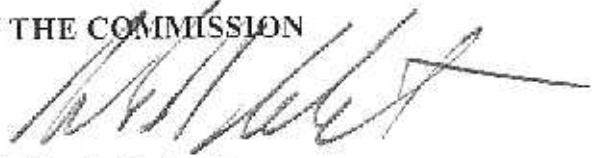
Statutory Authority: Sections 386.250 and 393.140, RSMo 2000, and section 393.1006.10, RSMo Supp. 2003.

If there are any questions regarding the content of this order of rulemaking, 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
keith.krueger@psc.mo.gov

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BY THE COMMISSION

A handwritten signature in black ink, appearing to read "Dale Hardy Roberts", written over the printed name.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Enclosures: Order of Rulemaking – Rule 4 CSR 240-3.650 (Water Utility Petitions for Infrastructure System Replacement Surcharge); electronic copy on 3.5" diskette; rule Transmittal.

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Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240 – Public Service Commission

Chapter 3 – Filing and Reporting Requirements

MAR 02 2004

**SECRETARY OF STATE
ADMINISTRATIVE RULES**

ORDER OF RULEMAKING

By the authority vested in the Missouri Public Service Commission under sections 386.250 and 393.140, RSMo 2000, and 393.1006.10, RSMo Supp. 2003, the commission adopts a rule as follows:

**4 CSR 240-3.650 Water Utility Petitions for Infrastructure
System Replacement Surcharges is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on November 3, 2003 (28 MoReg 1907-1909). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The commission received written comments regarding this proposed rule from the PSC Staff, the Office of the Public Counsel (OPC) and Missouri-American Water Company (MAWC). The period for receiving written comments on this proposed rule ended on December 4, 2003. The commission held a public hearing on this proposed rule on December 11, 2003 and received comments regarding this proposed rule from representatives of all of the above-referenced entities at that hearing. Comments received addressed the need for the rule in general and various specific provisions of the proposed rule. The comments regarding the need for the rule will be addressed first below, with comments regarding specific provisions of the rule then being addressed in order by rule section.

COMMENT: Missouri-American Water Company stated that the proposed rule is not necessary, due to the specificity of the enabling statute, and said that sections (1) through (7), (10), (12), and (15) through (17) unnecessarily restate certain provisions of House Bill 208.

RESPONSE: The Commission has considered the comment and will not delete the rule in its entirety, as requested, because there is a need to specify the procedures to be followed in implementing the statute, and the statute permits the restatement of the statute in order to make the requirements of the rule easier to understand.

COMMENT: The Staff of the Public Service Commission recommended that subsection (1) (E) of the proposed rule be revised to make clear that the annual depreciation expenses and property taxes that are included in "ISRS costs" are those that apply to eligible infrastructure system replacements, reduced by depreciation expenses and property taxes on any related facility retirements.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has reviewed the changes suggested by the Staff and finds that these suggested changes provide clarification without deviating from the intent of the governing statutes. The Commission will incorporate this language into the rule.

COMMENT: Missouri-American Water Company commented that the requirements in sections (8) and (9) of the proposed rule that a water corporation provide its customers with an initial notice, and annual notices thereafter, regarding ISRS filings, is not found in the provisions of House Bill 208 and is contrary to the provisions of section 393.1006.10, RSMo. Missouri-American estimates that this notice requirement will cause additional costs of about \$195,000 per year to be borne by its St. Louis County customers.

RESPONSE: The Commission has reviewed the changes suggested by Missouri-American, and will not incorporate these suggested changes into the rule. The public notice requirements of sections (8) and (9) of the proposed rule are permitted under the statutes and are necessary if the public is to be informed of these surcharges on their bills.

COMMENT: Missouri-American Water Company commented that the requirement in sections (8) and (9) of the proposed rule that a water corporation provide a line-item description of the surcharge is inconsistent with House Bill 208 and is contrary to the provisions of section 393.1006.10, RSMo. Missouri-American states, however, that it is not opposed to establishing such a billing structure, but it estimates that the line-item billing requirement will cause additional reprogramming costs amounting to about \$10,000.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with the comment and will delete the words "line-item" from subsection (8) (c) of the rule.

COMMENT: The Office of the Public Counsel stated that customer notification as to the potential cost of essential public services regulated by the Commission is of paramount importance, and therefore supports the notice requirements in section (8) of the proposed rule. It said the requirement of subsection (8)(C) that the ISRS charge be set out separately on a customer's bill is consistent with the goal of providing bills with a clear and concise format, and said that since the ISRS is a separate tariffed rate, it cannot be simply combined with other tariffed rates.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees with the comment. The Commission will revise subsection (8) of the proposed rule, to make it consistent with subsection (9) of the proposed rule, by requiring that the notices submitted pursuant to subsection (9) be approved by the Commission before they are sent to the water corporation's customers. In addition, in subsection (7), the words "provide notice" will be changed to "publish notice," to make it consistent with section 393.1006.1(2), RSMo.

COMMENT: The Office of the Public Counsel recommended that the provisions of section (9) be expanded to permit the OPC to submit comments on the proposed notice that the water corporation provides to the Commission.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees, and will insert language to permit the Office of the Public Counsel to submit comments within ten days after the water corporation's filing. Allowing the Office of the Public Counsel to submit comments is consistent with Commission practice and will facilitate the consideration of an application for an ISRS. The Commission will also insert the words "or rejection" after the word "approval," to clarify that the Commission may reject notices that do not comply with the rule.

COMMENT: The Staff of the Public Service Commission recommended that four changes be made to sections (8) and (9), for purposes of clarification and/or in response to comments

received. It suggested that: the phrase "explaining how it will calculate its ISRS" be deleted from subsection (8) (A); the term "line-item" be deleted from subsection (8) (C); the term "initial, one-time" be deleted from subsection (9) (A); and that the word "annual" be deleted from subsection (9) (B).

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees and will make the recommended changes.

COMMENT: Missouri-American Water Company stated that the provision of section (11) of the proposed rule that authorizes the Staff of the Commission to examine the information provided by the water corporation to determine whether the underlying costs comply with the provisions of the rule as well as House Bill 208 violates the provisions of section 393.1006.2(2), RSMo, which states that the only information that the staff may examine is that which is necessary to confirm whether the costs are in accordance with House Bill 208. Missouri-American states that that the same deficiency exists in section (13) of the proposed rule, which would require water corporations who seek an ISRS to comply with not only House Bill 208, but also with the proposed rule. Missouri-American states that the words "the provisions of this rule and" should be deleted from section (11), and the words "this rule and" should be deleted from section (13).

RESPONSE AND EXPLANATION FOR CHANGE: The Commission agrees and will make the following changes. In section (11), the words "are in accordance with the provisions of this rule and sections 393.1000 to 393.1006, RSMo," will be deleted and the words "provides pursuant to the provisions of this rule and sections 393.1000 to 393.1006, RSMo," will be inserted after the words "eligible water utility." These changes are made to show that the water corporation must supply information in accordance with the rule, but the rule does not change the criteria for evaluating the information that is supplied. The Commission will also delete the words "this rule and" from section (13), for the same reasons.

COMMENT: The Office of the Public Counsel recommended that, for purposes of clarification, the statutory words "pursuant to the provisions of Sections 393.1000 to 393.1006" be inserted after the word "commission" at the end of proposed section (13).

RESPONSE: The Commission has reviewed the recommendation of the Public Counsel, and will not make the suggested change, which would unnecessarily repeat the section's prior reference to the same statutory sections.

COMMENT: The Staff of the Public Service Commission recommended that two changes be made to sections (10) and (13), for purposes of clarification and/or in response to comments received. It suggested that: a reference to the applicable statutory provisions be inserted in section (10); and that the phrase "this rule and" be deleted from the first line of section (13).

RESPONSE AND EXPLANATION FOR CHANGE: The Commission agrees and will make the recommended changes, as described above.

COMMENT: Missouri-American Water Company contended that the words "with the first such period beginning on the effective date of the rate schedules that establish an initial ISRS," which are included in section (14) of the proposed rule, are inconsistent with the provisions of section 393.1006.3, and should be deleted, because they may intimate a limitation on a water corporation's ability to seek an ISRS.

RESPONSE: The Commission has reviewed the change suggested by Missouri-American and will not incorporate the recommended change into the rule. The language that Missouri-American sought to delete provides clarification about the computation of time associated with implementation of the rule and does not limit a water corporation's ability to seek an ISRS.

COMMENT: The Office of the Public Counsel noted that section (16) of the proposed rule does not refer to the consumer protection provision of sections 393.1006.8 and 393.1006.9, which provide that ISRS charges for plant investment that is subsequently found to be imprudent be excluded during a general rate proceeding. OPC states that it is unclear what happens to ISRS charges that are associated with imprudent plant investment. It believes that these statutory references to rate case reviews of prudence are vital to protect consumers, and should be included in the rule.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered this suggested change and notes that the focus of the proposed rule is on the provisions under which the Commission will address the filing and processing of ISRS petitions. The Commission is not, however, opposed to reproducing this statutory provision in the proposed rule. A new section (14) has been added to the proposed rule to address this suggested change, and succeeding sections have been renumbered accordingly.

COMMENT: The Office of the Public Counsel noted that section (17) of the proposed rule does not refer to the consumer protection provision of sections 393.1006.8 and 393.1006.9, which provide that ISRS charges for plant investment that is subsequently found to be imprudent be excluded during a general rate proceeding. OPC added that the new statute does not address how any overrecovery or underrecovery that exists after the ISRS has been rebased to zero should be reflected on customer bills. It suggests that language be added to explain how the unreconciled amount could be handled in a manner that is consistent with the statute.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has considered this comment and agrees that the proposed rule does not provide sufficient guidance on how unreconciled ISRS amounts will be addressed after general rate case proceedings. The Commission has added language to sections (17) and (18) to require the water corporation to track such overrecovery or underrecovery, for consideration in the water corporation's next ISRS filing that it submits pursuant to the provisions of section (2) of the rule.

COMMENT: Missouri-American Water Company commented that subsection (18) (G) of the proposed rule seeks to impermissibly change the meaning of the words "net original cost of eligible infrastructure system replacements," as used in section 393.1000.1 (a), RSMo, by appearing to define "net original cost of infrastructure system replacements" to mean "total cost [of such replacements] less the net book value of any related facility retirements." Missouri-American states that there is nothing in the language of House Bill 208 to suggest that "the net book value of related facility retirements" may be considered when calculating ISRS revenues. It contends that it is untenable to suggest that the "net original cost of eligible infrastructure replacements" means something other than the original cost (net of depreciation) of the specific infrastructure replacement facilities that are eligible for inclusion in an ISRS. Missouri-American asserts that there is nothing in House Bill 208 to indicate that the net book value of non-eligible infrastructure retirements may be considered when determining what level of ISRS revenues is needed to permit recovery of eligible infrastructure replacement costs.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees and will make the following changes. The definition of "net original cost of eligible infrastructure system replacements," which was shown in parentheses in the proposed rule, will be changed to read: "original cost of eligible infrastructure system replacements, net of the accumulated deferred income taxes and the accumulated depreciation associated with these replacements." This corresponds with the apparent legislative intent that the accumulated deferred income taxes and accumulated depreciation offset be limited to the infrastructure system replacements that are the subject of the ISRS application. This definition will also be moved to paragraph 1 of subsection (1) (A), because when a rule defines terms, the definition should appear where the term is first used. Also, the words "related ISRS costs" will be changed to "ISRS costs related to the eligible replacements," for the reasons mentioned above.

COMMENT: Missouri-American Water Company stated that subsections (18) (I), (M), and (N) of the proposed rule introduce additional items to be reviewed during the ISRS process beyond those provided for in House Bill 208. It added that while some of this information might be relevant in a prudence review that is conducted as part of a general rate case, it is not the kind of informational items that a utility should be required to provide when filing for an ISRS. It argued that these provisions are inconsistent with section 393.1006.2(2) and violate section 393.1006.10, and that they should be eliminated.

RESPONSE AND EXPLANATION OF CHANGE: The Commission has reviewed the changes suggested by Missouri-American and will not incorporate the recommended change to subsection (18) (I) of the proposed rule. The information described in this subsection is needed to determine whether the project is ISRS-eligible and to properly determine the amount of the ISRS. The Commission agrees that the informational items described in subsections (18) (M) and (N) of the proposed rule may not be required when a utility files for an ISRS, but finds that they are relevant in a prudence review. Therefore, the Commission will allow this information to be provided in either a general rate case filing or in an ISRS filing. These two subsections will be moved from section (18) of the proposed rule, to section (20) of the rule, which pertains to items that may be supplied in either an ISRS filing or in a general rate case filing.

COMMENT: The Office of the Public Counsel recommends adding language to subsection (18) (I) that mirrors the language in the proposed gas ISRS rule (proposed as 4 CSR 240-3.625 (18) (M), (N), and (P)). OPC says this would facilitate verification that the property is eligible for inclusion in the ISRS determination.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees, in part, and will insert subsection (O), providing: "An explanation of how the infrastructure replacement projects associated with the ISRS do not increase revenues by directly connecting the infrastructure replacement to new customers." The Commission will also insert subsection (P), providing: "An explanation of when the infrastructure replacement projects associated with the ISRS were completed and became used and useful." The additional subsections will facilitate the determination of whether property is ISRS-eligible.

COMMENT: The Office of the Public Counsel stated that House Bill 208 requires water corporations to provide information that is not included among the list of items that section (18) of the proposed rule requires them to provide. The OPC recommends that section (18) of the proposed rule be modified to require that the accumulated depreciation expense and accumulated

deferred income taxes associated with each ISRS-eligible property be provided with each ISRS filing, so they can be recognized in determining the amount of the ISRS.

RESPONSE: The Commission appreciates the OPC's comments, but does not agree that the suggested changes are necessary, as it is likely that the referenced information will be provided in the workpapers showing how the petitioning water utility calculated its proposed ISRS.

COMMENT: The Staff of the Public Service Commission recommended that five changes be made to sections (18), for purposes of clarification and/or in response to comments received. It suggested that: subsection (G) of the proposed rule be revised to better define the term "net original cost"; in subsection (H) of the proposed rule, the word "the" be inserted before the word "source"; in subsection (M) of the proposed rule, the words "incurred for" be substituted for the words "associated with," and the word "and" be deleted from the end of the subsection; the punctuation mark at the end of subsection (N) of the proposed rule be changed from a period to a semicolon; and that new subsections be added, to require water corporations to explain how the infrastructure replacement projects do not increase revenues by directly connecting to new customers, and when the infrastructure replacement projects became used and useful.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees and will make the recommended changes. The reason for the change to subsection (G) is set forth above. The new subsections will be designated as subsections (198 (M) and (N) in the rule. The other changes are to improve clarity and grammar.

COMMENT: In comments at the public hearing on this rule, John Coffman, Public Counsel, suggested that this rule be consistent with the Gas ISRS Rule (4 CSR 240-3.625) to the extent appropriate for the different industries.

RESPONSE AND EXPLANATION OF CHANGE: The Commission agrees and will add subsections (20) (C) and (D) to the rule, to be consistent with the provisions of 4 CSR 240-3.625. Subsection (20) (C) will require the water corporation to submit an explanation of how long infrastructure had been in service before it was replaced or abandoned. Subsection (20) (D) will require the water corporation to submit information about the request for proposal (RFP) process used in selecting the entity that completed the infrastructure replacement projects. These informational items may be submitted either with the ISRS application or in the water corporation's next rate case, and are required for the Commission's determination that the replacements were prudent.

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

(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 (original cost of eligible infrastructure system replacements, net of accumulated deferred income taxes and accumulated depreciation associated with the 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;

(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, reduced by annual depreciation expenses and property taxes on any related facility retirements;

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

(8) The eligible water utility shall provide the following notices to its customers, with such notices to be approved by the commission in accordance with section (9) of this rule before they are sent to the customers:

(A) An initial, one (1)-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 its ISRS will be applied to its various customer classes and identifying the statutory authority under which it is implementing its ISRS;

(C) A surcharge description on all affected customer bills, which informs the customers of 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 items to the commission for approval or rejection, and the office of the public counsel may, within ten (10) days of the water utility's filing, submit comments regarding these items to the commission:

(A) An example of the notice required by subsection (8)(A) of this rule;

(B) An example of the notice required by subsection (8)(B) of this rule; and

(C) An example customer bill showing how the ISRS will be described 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 and sections 393.1000 to 393.1006, RSMo, the commission shall conduct an examination of the proposed ISRS.

(11) The staff of the commission may examine the information the eligible water utility provides pursuant to the provisions of this rule and sections 393.1000 to 393.1006, RSMo, to confirm the underlying costs related to and the 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 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.

(13) If the commission finds that a petition complies with the requirements of 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) Commission approval of a petition, and any associated rate schedules, to establish or change an ISRS pursuant to sections 393.1000 to 393.1006, 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 recovery of costs associated with eligible infrastructure system replacements previously collected through an ISRS, as a part of its order in a subsequent general rate proceeding, the water utility shall offset its ISRS in the future as needed to recognize and account for any such disallowances. Nothing in this rule or section 393.1006, 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 an eligible water utility.

(15) An eligible water 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 (17) of this rule.

(16) At the end of each twelve (12)-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.

(17) 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. If an over or under recovery of ISRS revenues, including any commission ordered refunds, exists after the ISRS has been reset to zero, the amount of over or under recovery shall be tracked in an account and considered in the water utility's next ISRS filing that it submits pursuant to the provisions of section (2) of this rule.

(18) 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, and shall track such revenues pursuant to the provisions of section (17) of this rule.

(19) 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:

(G) The costs that are eligible for recovery during the period in which the ISRS will be in effect, including the net original cost of the infrastructure system replacements and the amount of ISRS costs related to the eligible replacements; and a breakdown of the 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 the source of and the basis for using those billing determinants;

(M) An explanation of how the infrastructure replacement projects associated with the ISRS do not increase revenues by directly connecting the infrastructure replacement to new customers; and

(N) An explanation of when the infrastructure replacement projects associated with the ISRS were completed and became used and useful.

(20) In addition to the information required by section (19) of this rule, the eligible water utility shall also submit the following information, either when it submits the information required by section (19) of this rule or when it files its next general rate case:

(A) An explanation of the efforts to quantify and seek reimbursement for any costs associated with facility 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;

(B) If any of the projects associated with the ISRS were funded through financing arrangements directed specifically to the projects, an explanation of how the projects were funded, including the amount of debt and the interest rate on that debt;

(C) An explanation of how long any facilities that were replaced by eligible infrastructure system replacements had been in service when they were replaced or abandoned; and

(D) An explanation of the request for proposal (RFP) process used, or the reasons that a RFP process was not used, to select the entity that performed the infrastructure replacement projects associated with the ISRS.

(21) In addition to the information required by section (19) 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:

MEMORANDUM

TO: Dale Hardy Roberts, Secretary

DATE: February 24, 2004

RE: Authorization to File Order of Rulemaking 4 CSR 240-3.650 with the Office of the Secretary of State

CASE NO.: WX-2004-0093

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



Steve Gaw, Chair



Connie Murray, Commissioner



Robert Clayton, Commissioner