

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

**In the Matter of a Proposed Amendment to 4 CSR 240-3.190 Reporting  
Requirements for Electric Utilities and Rural Electric Cooperatives**

**December 30, 2003 Public Hearing**

**Case No. EX-2003-0489**

**FILED**

**JAN 08 2004**

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

**Missouri Public  
Service Commission**

By Warren T. Wood, PE  
Energy Department Manager  
Missouri Public Service Commission Staff

This proposed amendment was published in the Missouri Register on November 17, 2003. The public comment period on this proposed amendment ended December 17, 2003. This exhibit details each of the comments and changes recommended by parties other than Staff and Staff's responses to these comments and suggested changes. Where other parties have suggested changes that Staff believes should be incorporated, such changes are noted here. The proposed amendment with all changes that Staff is currently recommending be incorporated is attached to this exhibit as Attachment A.

1) Earle W. Shively, General Manager/CEO, Barry Electric Cooperative, 4015 Main Street, P. O. Box 307 Cassville, MO 65625, (417) 847-2131;  
Thomas J. Steska, General Manager/CEO, Black River Electric Cooperative, P.O. Box 31, 2600 Highway 67, Fredericktown, Missouri 3645, (573) 783-3381;  
Don Ernst, General Manager/CEO, Co-Mo Electric Cooperative, Inc., 29868 Highway 5, P.O. Box 220, Tipton, MO 65081, (660) 433-5521;  
Dan Bryan, Executive Vice President/CEO, Farmers' Electric Cooperative, Inc., Bus. Hwy 36 East, P.O. Box 680, Chillicothe, MO 64601, (660) 646-4281;  
Dan Singletary, General Manager, Howell-Oregon Electric Coop., Inc., P.O. Box 649, West Plains, MO 65775, (417) 256-2131;  
Kenneth L. Miller, General Manager, Laclede Electric Cooperative, P.O. Box M, Lebanon, MO 65536, (417) 532-3164;  
Mark W. Stuart, Facility Coordinator/Safety Director, New-Mac Electric Cooperative, Inc., 12105 Highway 86 East, P.O. Box 310, Neosho, MO 64850, (417) 451-1515;  
Charles J. Crawford, General Manager, Pemiscot-Dunklin Electric Cooperative, Inc., P.O. Box 657, Hayti, MO 63851, (573) 757-6641;

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Date 12-30-03 Rptr TCT

**Lee M. Binley, General Manager, SeMaNo Electric Cooperative, Mansfield, MO 65704, (417) 924-3243;**  
**Wright L. Bogart, Safety Director, SeMaNo Electric Cooperative, Mansfield, MO 65704, (417) 924-3243;**  
**Mark J. Newbold, Manager of Administrative Services, Central Electric Power Cooperative, 2106 Jefferson St., P.O. Box 269, Jefferson City, MO 65102, (573) 634-2454;**  
**Philip M. Ragsdale, Webster Electric Cooperative, 1240 Spur Drive, P.O. Box 87, Marshfield, MO 65706, (417) 859-2216;**  
**Gene Dorrel, General Manager, United Electric Cooperative, Maryville, MO, (816) 324-3155;**  
**Walter R. Ryan, General Manager, Three Rivers Electric Cooperative, 1324 East Main St. P.O. Box 918, Linn, MO 65051, (573) 897-2251; and**  
**Vernon W. Strickland, General Manager, Intercounty Electric Cooperative Association, 102 Maple Avenue, P.O. Box 209, Licking, MO 65542, (573) 674-2211**

Comment:

The parties listed above commented that the notice of the rule contains a fiscal note indicating the cost to state agencies or political subdivisions will be less than five hundred dollars (\$500) in the aggregate and the cost to private entities will be less than five hundred (\$500) in the aggregate. This is incorrect in that the private entity reporting requirements and PSC handling and investigation costs will exceed \$500. The cooperative believe that this amount is incorrect and that the commission needs to further review the proposal.

Staff Response:

As noted in the comments from parties below, Staff is asking for information that is already documented by electric service providers in the state. Staff believes that any prudent electric service provider would be tracking accidents that would result in the damages or injuries Staff is asking for information on. The proposed amended rule simply ask for a "brief description of an accident", it is not prescriptive in terms of a form and Staff is not mandating that an investigation be performed in this rule. Staff does not anticipate that additional personnel or resources will be required of the electric service providers in the state to notify Staff of the reportable accidents that occur. The rule does not assign the PSC with incident handling or investigation responsibilities that do not already exist in statutes so Staff has not assessed the PSC any cost for these efforts. The rule also does not create investigation coordination responsibilities by electric service providers that do not already exist in statutes so Staff has assessed no additional costs for these efforts.

2) Earle W. Shively, General Manager/CEO, Barry Electric Cooperative, 4015 Main Street, P. O. Box 307 Cassville, MO 65625, (417) 847-2131;  
 Thomas J. Steska, General Manager/CEO, Black River Electric Cooperative, P.O. Box 31, 2600 Highway 67, Fredericktown, Missouri 3645, (573) 783-3381;  
 Ron Hunter, Manager, Atchison-Holt Electric Cooperative, 18585 Industrial Road, P.O. Box 160, Rock Port, MO 64482, (660) 744-5344;  
 Don Ernst, General Manager/CEO, Co-Mo Electric Cooperative, Inc., 29868 Highway 5, P.O. Box 220, Tipton, MO 65081, (660) 433-5521;  
 John W. Greenlee, General Manager, Gasosage Electric Cooperative, P.O. Drawer G, Dixon, MO 65459, (573) 759-7146;  
 Dan Singletary, General Manager, Howell-Oregon Electric Coop., Inc., P.O. Box 649, West Plains, MO 65775, (417) 256-2131;  
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 Charles J. Crawford, General Manager, Pemiscot-Dunklin Electric Cooperative, Inc., P.O. Box 657, Hayti, MO 63851, (573) 757-6641;  
 Mark J. Newbold, Manager of Administrative Services, Central Electric Power Cooperative, 2106 Jefferson St., P.O. Box 269, Jefferson City, MO 65102, (573) 634-2454;  
 Thomas W. Howard, CEO/General Manager, Callaway Electric Cooperative, 503 Truman Rd., P.O. Box 250, Fulton, MO 65251, (573) 642-3326;  
 Jerry Hartman, Directory of Communications and Safety, Sho-Me Power Electric Cooperative, 301 West Jackson, P.O. Drawer D, Marshfield, MO 65706, (417) 468-2615;  
 Philip M. Ragsdale, Webster Electric Cooperative, 1240 Spur Drive, P.O. Box 87, Marshfield, MO 65706, (417) 859-2216;  
 Gene Dorrel, General Manager, United Electric Cooperative, Maryville, MO, (816) 324-3155;  
 Walter R. Ryan, General Manager, Three Rivers Electric Cooperative, 1324 East Main St. P.O. Box 918, Linn, MO 65051, (573) 897-2251; and  
 Vernon W. Strickland, General Manager, Intercounty Electric Cooperative Association, 102 Maple Avenue, P.O. Box 209, Licking, MO 65542, (573) 674-2211

Comment:

The parties listed above commented that the proposed amendment contains requirements that are duplicative with activities already being conducted by either the PSC, Missouri electric cooperatives or both. The cooperative further believes that additional reporting, without benefit to the electrical industry is clerical redundancy. The information required to be reported duplicates mandates already established by OSHA, the USDA Rural Utilities Service, worker's compensation providers, MECIP, insurance carrier, Federated Rural Electric Insurance Exchange, the Association of Missouri Electric Cooperative, Inc. and state and local agencies.

Staff Response:

Staff does not believe that this rule is redundant beyond any possible redundancies that may already exist in federal or state statutes. Staff also does not believe that this rule is redundant to any degree with activities already being conducted by the PSC. The PSC has been given specific statutory obligations regarding safety and currently does not have any assurances that accidents related to its jurisdiction are being reported to the PSC. In fact, Staff currently receives accident reports from one of the utilities that this proposed change would apply to. This rule seeks to address the deficiency that currently exist between our statutory obligations and the information we have available to fulfill that obligation. As noted in the Staff Response above, the fact that this information is being tracked and provided to multiple organizations makes it clear that simply providing the PSC with a brief description of the incident and following up with the information that is already being provided to other organizations does not create an unreasonable effort on the behalf of the electric service providers.

**3) Earle W. Shively, General Manager/CEO, Barry Electric Cooperative, 4015 Main Street, P. O. Box 307 Cassville, MO 65625, (417) 847-2131;**  
**Thomas J. Steska, General Manager/CEO, Black River Electric Cooperative, P.O. Box 31, 2600 Highway 67, Fredericktown, Missouri 3645, (573) 783-3381;**  
**Ron Hunter, Manager, Atchison-Holt Electric Cooperative, 18585 Industrial Road, P.O. Box 160, Rock Port, MO 64482, (660) 744-5344;**  
**Don Ernst, General Manager/CEO, Co-Mo Electric Cooperative, Inc., 29868 Highway 5, P.O. Box 220, Tipton, MO 65081, (660) 433-5521;**  
**Dan Bryan, Executive Vice President/CEO, Farmers' Electric Cooperative, Inc., Bus. Hwy 36 East, P.O. Box 680, Chillicothe, MO 64601, (660) 646-4281;**  
**John W. Greenlee, General Manager, Gasosage Electric Cooperative, P.O. Drawer G, Dixon, MO 65459, (573) 759-7146;**  
**Dan Singletary, General Manager, Howell-Oregon Electric Coop., Inc., P.O. Box 649, West Plains, MO 65775, (417) 256-2131;**  
**Kenneth L. Miller, General Manager, Laclede Electric Cooperative, P.O. Box M, Lebanon, MO 65536, (417) 532-3164;**  
**Mark W. Stuart, Facility Coordinator/Safety Director, New-Mac Electric Cooperative, Inc., 12105 Highway 86 East, P.O. Box 310, Neosho, MO 64850, (417) 451-1515;**  
**Lee M. Binley, General Manager, SeMaNo Electric Cooperative, Mansfield, MO 65704, (417) 924-3243;**  
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**Mark J. Newbold, Manager of Administrative Services, Central Electric Power Cooperative, 2106 Jefferson St., P.O. Box 269, Jefferson City, MO 65102, (573) 634-2454;**  
**Thomas W. Howard, CEO/General Manager, Callaway Electric Cooperative, 503 Truman Rd., P.O. Box 250, Fulton, MO 65251, (573) 642-3326;**

**Philip M. Ragsdale, Webster Electric Cooperative, 1240 Spur Drive, P.O. Box 87, Marshfield, MO 65706, (417) 859-2216;**  
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**Walter R. Ryan, General Manager, Three Rivers Electric Cooperative, 1324 East Main St. P.O. Box 918, Linn, MO 65051, (573) 897-2251; and**  
**Vernon W. Strickland, General Manager, Intercounty Electric Cooperative Association, 102 Maple Avenue, P.O. Box 209, Licking, MO 65542, (573) 674-2211**

**Comment:**

The parties listed above commented that the incident reporting requirements proposed in section (4) of the proposed amendment will not improve safety. They commented that the National Electric Code has already been adopted by the PSC and Missouri law. Missouri electric cooperatives are required to have their systems inspected by a licensed engineer for safety issues and compliance with code. In addition, the cooperatives are regulated by RUS and are required by insurers to meet safety requirements. Additionally, many of the state cooperatives participate in NRECA's safety accreditation program and all participate in the Missouri Electric Cooperative Insurance plan safety audits. The information requested to be reported will not be used to improve any of these safety programs.

**Staff Response:**

These comments seem to indicate that since the parties' facilities already comply with NESC, are inspected by licensed engineers and the parties are regulated by RUS and required to participate in a number of accreditation programs that they should not be required to report accidents to the PSC. State statutes do not provide for this exception. It is expected that the critical energy delivery systems in our state be well designed, operate safely and meet all appropriate code requirements. The proposed amended rule has been developed to provide for notification of significant accidents so that the circumstances surrounding those accidents can be investigated if conditions warrant.

**4) Earle W. Shively, General Manager/CEO, Barry Electric Cooperative, 4015 Main Street, P. O. Box 307 Cassville, MO 65625, (417) 847-2131;**  
**Thomas J. Steska, General Manager/CEO, Black River Electric Cooperative, P.O. Box 31, 2600 Highway 67, Fredericktown, Missouri 3645, (573) 783-3381;**  
**Dan Bryan, Executive Vice President/CEO, Farmers' Electric Cooperative, Inc., Bus. Hwy 36 East, P.O. Box 680, Chillicothe, MO 64601, (660)-646-4281;**  
**John W. Greenlee, General Manager, Gasosage Electric Cooperative, P.O. Drawer G, Dixon, MO 65459, (573) 759-7146;**  
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**Vernon W. Strickland, General Manager, Intercounty Electric Cooperative Association, 102 Maple Avenue, P.O. Box 209, Licking, MO 65542, (573) 674-2211**

Comment:

The parties listed above commented that the time requirements in section (4) of the proposed amendment are unrealistic and will cause limited cooperative resources to be drawn away from repair and remedy and instead be devoted to reporting. The reporting time requirement set forth in the proposed document is unrealistic. Investigations and the production of accurate reports will be not only time consuming, but costly for members and customers. Due to the immediate nature of the reporting requirements, personnel typically devoted to restoring the system would be pressed to conduct an instantaneous investigation and file the resulting paperwork. This is contradictory to our policy of limiting the duration and frequency of outages.

Staff Response:

These comments seem to indicate that the parties believe that Staff anticipates that an investigation and report are required before Staff can receive its notification. No such requirements are contained in the rule and Staff specifically avoided writing the rule to be cumbersome in this manner. Staff is simply requesting a "brief description of an accident" by telephone or EFIS by the end of the first business day following the discovery of the accident. Staff is requesting an update on any additional details that are determined within five business days following discovery of the accident. No investigation results or formal reporting requirements have been prescribed in the rule to keep the efforts associated with notification of Staff to an absolute minimum. Staff would note that KCPL is currently reporting accidents to the PSC and Staff does not believe that this has represented a significant effort. Staff would also note that in the region surrounding Missouri, four states (Iowa, Illinois, Kentucky and Kansas) currently have accident reporting requirements that are similar to those proposed in this amended rule.

**5) Earle W. Shively, General Manager/CEO, Barry Electric Cooperative, 4015 Main Street, P. O. Box 307 Cassville, MO 65625, (417) 847-2131;**

**Thomas J. Steska, General Manager/CEO, Black River Electric Cooperative, P.O. Box 31, 2600 Highway 67, Fredericktown, Missouri 3645, (573) 783-3381;**  
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**Vernon W. Strickland, General Manager, Intercounty Electric Cooperative Association, 102 Maple Avenue, P.O. Box 209, Licking, MO 65542, (573) 674-2211**

Comment:

The parties listed above commented that the information reported, pursuant to the proposed amendment section (4), to the PSC would become public record and could be used in litigation against cooperatives to enhance damage claims.

Staff Response:

As noted in the comments above, the information Staff is requesting is already being tracked and provided to other entities. Providing Staff with this information does not create new litigation risk beyond those associated with notifying Staff of reportable accidents and the possibility that Staff may decide to investigate an accident and find negligence. Any Staff investigation results that show possible negligence on the behalf of the electric service provider could increase litigation risk but Staff's ability to perform investigations already exist in statutes. The change in circumstances that this proposed amended rule creates is that Staff would actually be made aware of the accident.

Regarding the comment on information becoming public, Staff notes that it is held to the statutory requirements of RSMo section 386.480 when it receives the information associated with this rule. This section provides that the information received by Staff shall only be divulged to the public under certain limited circumstances and the violation of this statute is a misdemeanor.

**6) Vernon W. Strickland, General Manager, Intercounty Electric Cooperative Association, 102 Maple Avenue, P.O. Box 209, Licking, MO 65542, (573) 674-2211**

Comment:

The phrase “contact with its energized electrical supply facilities”, in section (4) of the proposed amendment, could be “legally” interpreted to cover most of the facilities operated or controlled by the cooperative.

Staff Response:

It was Staff’s intent in its draft language that this proposed amendment apply to electrical contact with energized facilities. Staff has recommended, in Attachment A, that the word “electrical” be inserted in front of “contact” in “contact with its energized electrical supply facilities” in section (4). This should help to clarify the intent of the proposed amendment. Staff notes that the rule language noted in this comment was taken directly from the notice requirement rule in Iowa.

**7) Michael F. Barnes, Attorney for Union Electric Company, 1901 Chouteau M/C 1310, St. Louis, MO 63103, (314) 5543-2552**

Comment:

Ameren has no objection to those rule changes that change terminology to be consistent with the definitions in 4 CSR 240-3.010 or the express implementation of reporting through the Commission’s Electronic Filing and information System (EFIS).

Staff Response:

Staff agrees with this comment.

**8) Michael F. Barnes, Attorney for Union Electric Company, 1901 Chouteau M/C 1310, St. Louis, MO 63103, (314) 5543-2552**

Comment:

Ameren questions the need for additional monthly reporting requirements in paragraph (1), and Ameren also questions the use the Missouri Public Service Commission Staff (“Staff”) makes of the information submitted. Ameren notes that during a rate case the



Staff asks for some of the same information that is reported on a monthly basis. Ameren further notes that during the most recent Ameren rate case, some Staff did not know that the Commission had been receiving this data for years.

Staff Response:

The commenting party questions the need for additional monthly reporting requirements. Staff uses the monthly reporting requirement information submitted by the electric utilities to estimate fuel and purchase power expenses for rate cases and Staff investigations. The original purpose of the monthly reporting requirements was to enable Staff to do such work. The changes to these reporting requirements result from the Staff's experience using the data. The change to the previous section (D) is to clarify the information needed. Most of the utilities currently supply the net system input that was added as a requirement. Previously, Staff could add up the hourly generation and purchase power reports to obtain net system input for the utility. However, when a utility begins joint dispatching with other affiliates or divisions, the hourly reports cannot be aggregated to obtain the net system inputs because the generation and purchase power reported is what is necessary to meet the joint load. So to make sure that Staff receives net system input for the utility, this requirement was added. The only monthly information requirement that was added was for as-burned fuel reports. Over time, Staff has found that these reports were needed to accurately estimate fuel expenses.

Staff routinely asks for the same information in every rate case because, in the past when Staff used the information submitted monthly, the utility would rebut the Staff's use of the data saying that the data used was incorrect as was done in the most recent Ameren rate case. Asking for the information again in a rate or complaint case gives the utility the opportunity to supplement, clarify or correct any data that they might have submitted on a monthly basis. If the data that was sent on a monthly basis is accurate, the utility only has to reply to the Staff's request that the Staff should use the information submitted through this rule.

There are Staff who are not aware of the requirements of this rule just as there are utility employees that are not aware that the utility supplies this data to the Staff. If someone from Staff requests data that is submitted to the Energy Department on a monthly basis, the utility only needs to reply that the data has already been supplied to the Energy Department. The Staff's Energy Department is more than willing to provide the data to anyone on Staff that needs the information.

**9) Michael F. Barnes, Attorney for Union Electric Company, 1901 Chouteau M/C 1310, St. Louis, MO 63103, (314) 5543-2552**

Comment:

Ameren is unsure how some information requirements will be gathered. The fuel blending requirements in paragraph (1)(C) may have to be based on an estimate.

Staff Response:

If the utility is blending two types of coal in order to get a mix of the best characteristics of both coals then there should be a target for the amount of each coal in the blend.

Typically the operational constraints based on the boiler design will determine the optimum blend of two types of coals. A blend percentage is selected based on certain boiler operational constraints and that blend becomes the target for the fuel handling crews to meet. If this is the process, then an average blend percentage for a month should be known.

However, if two or more coals are burned as a mix but not necessarily in any fixed percentage of each, and the coals are mixed on the coal pile as they are received, then Staff would accept an estimated blend percentage.

**10) Michael F. Barnes, Attorney for Union Electric Company, 1901 Chouteau M/C 1310, St. Louis, MO 63103, (314) 5543-2552**

Comment:

Ameren requests that the language in paragraph (1)(C) be amended to exclude nuclear plants from these particular reporting requirements. Also, Ameren requests flexibility so that the fuel reports can be either for each "unit" or for each plant.

Staff Response:

Language has been added to the proposed amendment in Attachment A that exempts non-carbon based plants, which would exclude nuclear and renewable plants from reporting fuel Btu consumption. The intent is to be able to monitor each unit not each plant.

Unless the plant does not have separate gas/oil meters, or separate coal bunkers/silos, or individual measuring devices (such as coal feeder belt scales or gas/oil flow metering devices for each boiler), the amount of fuel burned by each boiler should be known.

If the boilers have a common bunker/silo and/or no separate fuel measuring devices, then the utility can report the fuel burned in total for those boilers, and an estimate of the fuel for each unit (boiler-turbine generator).

If more than one boiler provides steam to a turbine generator, then the utility can report fuel burned for the boilers and the estimated percentage of fuel burned for each turbine generator.

**11) Michael F. Barnes, Attorney for Union Electric Company, 1901 Chouteau M/C 1310, St. Louis, MO 63103, (314) 5543-2552**

Comment:

Paragraphs (1)(k) and (3)(A) propose to raise the reporting threshold for accidents at a generation plant from \$50,000 to \$100,000. Ameren supports this change.

Staff Response:

Staff agrees with this comment.

**12) Michael F. Barnes, Attorney for Union Electric Company, 1901 Chouteau M/C 1310, St. Louis, MO 63103, (314) 5543-2552**

Comment:

Ameren opposes the addition of paragraph (4), which deals with reporting of certain accidents for several reasons. First, the reporting will add greatly to the administrative burdens of the electric utilities and cooperatives. The initial reporting, and even more so the follow-up reporting, will require a significant amount of time and effort, which will come at a time when utility personnel are probably already devoting substantial time and effort to the accident investigation and follow-up.

Second, Ameren questions the Commission's need for this reporting. Ameren recognizes that the Commission has the right to investigate whether the utilities are rendering safe and adequate utility service, in accordance with the National Electrical Safety Code. Ameren believes that the impetus for this proposed change is related to an incident that occurred when a member of the public was seriously injured when they contacted an electrical line. The Commission was contacted by news media for information, which they were not immediately able to give. This solitary incident is not sufficient to impose a stringent regulatory reporting burden on electric utilities and cooperatives. Staff, if contacted by the media, can continue to contact the utility for information, as Staff has in the past.

If the Commission is not willing to eliminate paragraph (4) in its entirety, then Ameren urges the Commission to substantially revise it, in order to make it more reasonable and relevant. Ameren suggests the following changes.

The rule requires reporting of “any accident resulting from contact with its energized supply facilities.” Ameren suggests inserting “electrical” before “contact.” Ameren believes the Commission is interested in instances where a person or object actually contacts an energized source. The change would eliminate instances, for example, where a vehicle collides with a distribution pole, something that probably happens almost every day in Ameren’s service territory. Ameren also interprets the regulation to not require reporting of contacts that may take place with customer-owned electrical equipment, such as in residence and other structures.

Ameren suggests that the Commission not require a follow-up report on each and every incident. As noted above, the mandatory follow-up report will entail significant costs and attention. Instead, Ameren suggests that the rule be changed so that the utility will send a follow-up report when so requested by the Staff. This would give the Staff some discretion as to which reported incidents to pursue and which can be closed. The last sentence should be changed to read: “If requested by the manager of the Energy Department of the Commission or his/her designee, the electric utility or rural electric cooperative shall submit, either by mail or through EFIS within five (5) business days after such request, an update of the incident and any details not available at the time of the initial report.”

The proposed rule requires reporting of electric contact accidents that result in “ten thousand dollars (\$10,000) in damages to the property of the utility or others.” Ameren suggests that this language be deleted from the proposed rule. First, Ameren suggests the commission is much more interested in electrical contacts that result in deaths or hospital admissions rather than property damage. Second, it could be very difficult, if not impossible, for a utility to calculate or even estimate property damage by the end of the first business day following discovery of the electrical contact.

If the Commission is unwilling to delete this property damage provision, then Ameren suggests that the \$10,000 reporting limit be raised to a dollar figure that would justify both investigation and reporting burdens on the utility and the Staff’s efforts if Staff decides to investigate the accident. Ameren suggests \$50,000 as the property damage minimum.

Staff Response:

The commenting party's opposition to the administrative burdens required in the addition of paragraph (4) is similar to that of the cooperatives. Staff response to this opposition has already been set forward in response to comment 4.

The commenting party does not believe that the accident reporting requirements of section (4) of the proposed amended rule are necessary as current reporting requirements and other changes to the rule adequately ensure the safety of the public and utility employees. Staff would note that current reporting requirements do nothing to address accidents outside of power plants. It is expected that the critical energy delivery systems in our state be well designed, operate safely and meet all appropriate code requirements. The proposed amended rule has been developed to provide for notification of significant accidents so that the circumstances surrounding those accidents can be investigated if conditions warrant. The PSC has been given specific statutory obligations regarding safety and currently does not have any assurances that accidents related to its jurisdiction are being reported to the PSC. This rule seeks to address the deficiency that currently exist between our statutory obligations and the information we have available to fulfill that obligation.

The commenting party believes that the Commission is primarily interested in instances where a person or object actually contacts an energized source. Staff agrees with this comment. Staff agrees with the suggestion of putting the word "electrical" before the word "contact" so that the rule would require the reporting of "any accident resulting from electrical contact with its energized facilities." This change to the amended rule has been reflected in Attachment A.

The commenting party also states that it interprets the rule to not require reporting of contacts that may take place with customer-owned electrical equipment, such as in residence and other structures. The Staff agrees with that interpretation.

As other commenting parties did, the commenting party believes that the mandatory follow-up report will entail significant costs and attention. It proposes, as an alternative, follow up reports would be made as requested by Staff. It is the Staff's intent to keep the efforts associated with notification of Staff to an absolute minimum. Staff believes that any prudent electrical provider would be tracking accidents that Staff is asking for information on and that a brief report sent to Staff within five working days should not entail significant costs and attention.

The commenting party suggests that the requirement to report accidents that result in \$10,000 of damage be removed from the rule. Because property damage can be the result of non-compliance with the NESC safety code, the Staff believes that the utilities should have to report property damage also. Staff agrees that it is difficult to calculate the value of property damage at the end of one working day. However, Staff does not believe that it is difficult to estimate the value of the property damage. While an approximate dollar value of damage would be appropriate information to be included in both of the requested reports, Staff is not requiring it in either report.

The commenting party requested that if the damage property provision was not eliminated that the property damage minimum be raised to \$50,000. Of the four nearby states (Iowa, Illinois, Kentucky and Kansas) that have accident reporting requirements to their respective commissions, two specify dollar amounts (\$10,000 in Iowa and \$25,000 in Kentucky). The other two states refer to significance of the event in determining if a report is needed. Staff has considered this comment and agrees that changing the reporting threshold may be appropriate but believes that a \$20,000 threshold is more reasonable. This will provide for reporting of accidents with significant property damage and reduce the number of reports of minor accidents. Staff notes that if the Commission is interested in this reporting requirement being focused on accidents that result in injuries or deaths that the proposed rule could be further revised to simply remove references to property damage. If the Commission incorporates these further changes in section (4) of the proposed amendment, the Staff would suggest that the power plant damage reporting requirement in section (3)(A) of the proposed amendment remain.

**13) Dean L. Cooper, Brydon, Swearingen & England P.C., 312 East Capitol Avenue, P.O. Box 456, Jefferson City, MO 65102, (573) 635-7166; and Jerry Divin, President of the Board, Association of Missouri Electric Cooperatives, 2722 East McCarty Street, PO Box 1645, Jefferson City, MO 65102, (573) 635-6857**

Comment:

The Empire District Electric Company (Empire) and the Association of Missouri Electric Cooperatives (AMEC) oppose the addition of section (4) as proposed in 4 CSR 240-3.190. Empire believes that the addition of this section is unnecessary and that the current reporting system, coupled with the other suggested changes to this rule, adequately ensure safety of the public and utility employees.

Staff Response:

The commenting parties do not believe that the accident reporting requirements of section (4) of the proposed amended rule are necessary as current reporting requirements and

other changes to the rule adequately ensure the safety of the public and utility employees. Staff would note that current PSC reporting requirements do nothing to address accidents of regulated electric utilities outside of power plants or any accidents involving cooperatives. Further, the fact that NESC was updated in the proposed rule does nothing to address accidents, and potential investigation of those accidents, related to energized electrical supply facilities. The comments of Empire seem to indicate that since the utility already complies with NESC they should not be required to report accidents to the PSC. State statutes do not provide for this exception. It is expected that the critical energy delivery systems in our state be well designed, operate safely and meet all appropriate code requirements. The proposed amended rule has been developed to provide for notification of significant accidents so that the circumstances surrounding those accidents can be investigated if conditions warrant. The PSC has been given specific statutory obligations regarding safety and currently does not have any assurances that accidents related to its jurisdiction are being reported to the PSC. This rule seeks to address the deficiency that currently exist between our statutory obligations and the information we have available to fulfill that obligation.

**14) Dean L. Cooper, Brydon, Swearingen & England P.C., 312 East Capitol Avenue, P.O. Box 456, Jefferson City, MO 65102, (573) 635-7166**

Comment:

Empire is opposed to the \$10,000 threshold for reporting of incidents involving property damage, proposed in section (4). Empire believes that this limit is too low and should be stricken from the rule amendment. Alternatively, Empire would suggest that a \$100,000 damage threshold be set, to be consistent with proposed section (3)(A).

Staff Response:

The new \$100,000 damage threshold in the proposed section (3)(A) only relates to power plant accidents. It is clear that damage values could be much greater in a power plant, due to the very expensive equipment at these sites, than would generally be observed in most areas that an accident would occur outside of a power plant. Comparisons to the \$100,000 noted in the proposed section (3)(A) and the dollar amounts associated with damage to other facilities are not appropriate. Staff does however agree that the language in the proposed amendment should be revised to clarify if reporting is required for accidents at power plants where the amount of damage is valued at less than \$100,000. Staff does not believe that the proposed amendment should require reporting of power plants accidents that do not include personnel injuries where the amount of damage is less than \$100,000.

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**

**Division 240—Public Service Commission**

**Chapter 3—Filing and Reporting Requirements**

**PROPOSED AMENDMENT**

**4 CSR 240-3.190 [Electric Utility] Reporting Requirements for Electric Utilities and Rural Electric Cooperatives.** The commission is proposing to amend the title of the rule, the purpose section and sections (1)–(4) of the rule, add a new section (4) and renumber sections (4)–(8) accordingly.

*PURPOSE: The changes proposed in this amendment update and clarify the reporting requirements for electric utilities. It also adds a reporting requirement for accidents involving any energy supply facility. This requirement applies to both electric utilities and electric cooperatives that serve in the state of Missouri. Terminology referring to the Public Service Commission and electric utilities is changed to be consistent with the definitions in 4 CSR 240-3.010.*

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

(1) Commencing on September 1, 1991, every ~~le~~electrical corporation as defined in section 386.020, RSMo, subject to the jurisdiction of the Public Service Commission (PSC) ~~l~~electric utility shall accumulate the following information and transmit it to the manager of the ~~le~~Energy ~~l~~d)Department of the ~~l~~PSC] commission, or his/her designee, no later than the last business day of the month following the month to be reported and after that on a monthly basis:

(A) All generating unit outages and derates, excluding hydroelectric generating units and units whose capacity comprises less than one and one-half percent (1 1/2%) of the ~~le~~electrical corporation's] electric utility's installed capacity;

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

(D) Net system input for the electric utility;

~~l~~(C)](E) Net hourly generation for each generating unit;

~~l~~(D)](F) Megawatt amount and delivery prices of ~~l~~H]hourly purchases and sales of electricity from or to other ~~l~~utility companies] electrical services



providers, independent power producers or cogenerators, including the parties to purchases and sales, and the terms of purchases and sales;

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

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

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

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

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

~~[(I)]~~(K) The terms of new contracts or existing contracts which will be booked to Accounts 310-346 or Accounts 502-546 of the FERC's Uniform System of Accounts requiring the expenditure by the ~~[electrical corporation]~~ **electric utility** of more than ~~[fifty]~~ **one hundred** thousand dollars ~~[( \$50,000 )]~~ **( \$100,000 )** including, but not limited to, contracts for engineering, consulting, repairs and modifications or additions to an electric plant; and

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

**(2) [The] Any of the information required in [sub]section[s] (1)[(C) and (D)] of this rule may be provided to the manager of the [e]Energy [d]Department of the [PSC] commission or his/her designee [on computer diskette or by electronic transmission. If the information required in subsections (1)(C) and (D) is provided on computer diskette or by electronic transmission, the data reported and the software program used to record the data shall be clearly identified and shall be accompanied by a statement as required in subsection (4)(A) of this rule.] in electronic format. The**

electronic files may be submitted through the commission's Electronic Filing and Information System (EFIS).

(3) *In addition to the reporting requirements in sections (1) and (2) of this rule, every electrical corporation electric utility, as defined in section 386.020, RSMo, subject to the jurisdiction of the PSC, shall report to the manager of the Energy Department of the PSC commission or his/her designee by telephone or electronic transmission through EFIS by the end of the first business day following discovery, the information described in subsections (3)(A)–(E) below. If the report is initially made by telephone, the electric utility shall submit, a written description either by mail or electronic transmission through EFIS within five (5) business days following the discovery, an update of the incident and any details not available at the time of the initial report.*

(A) Details of any accident at a power plant involving serious physical injury or death or property damage in excess of *fifty* one hundred thousand dollars *(\$50,000)(\$100,000)*;

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

(4) Every electric utility and rural electric cooperative shall report to the manager of the Energy Department of the commission or his/her designee, by telephone or through EFIS, a brief description of an accident by the end of the first business day following the discovery of any accident resulting from electrical contact with its energized electrical supply facilities which results in the fatality of an employee or other person, admission to a hospital, *twentyten* thousand dollars *(\$210,000)* in damages to the property of the utility or others or any other accident considered significant by the utility. The electric utility or rural electric cooperative shall submit, either by mail or through EFIS within five (5) business days following the discovery, an update of the incident and any details not available at the time of the initial report.

*((4))(5)* All reports and information submitted by *electrical corporations* electric utilities and rural electric cooperatives pursuant to this rule shall be *—*

(A) *S*ubscribed by the president, treasurer, general manager, receiver or other authorized representative of the *electrical corporation* electric utility or rural electric cooperative having knowledge of the subject matter and shall be stated to be accurate and complete, and contain no material misrepresentations or omissions, based upon facts of which the person subscribing the report or information has knowledge, information or belief. *and* Any information submitted through EFIS will bear the electronic signature of the utility representative who is submitting it.

*((B))* Sent to the Energy Department Manager, Public Service Commission, P.O. Box 360, 200 Madison St., Suite 700, Jefferson

*City, MO 65102 or submitted electronically through the commission's electronic filing system.]*

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

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

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

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

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

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

***NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:***

*Anyone may file comments in support of or in opposition to this proposed amendment 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 17, 2003, and should include a reference to Commission Case No. EX-2003-0489. 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 amendment is scheduled for December 30, 2003, at 1:30 p.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 amendment, 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.*

