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SALUS POPULI SUPREMA LEX ESTO

*"The welfare of the people shall be the supreme law."*



ROBIN CARNAHAN  
SECRETARY OF STATE

MISSOURI  
REGISTER

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

# Missouri Participating Libraries

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## HOW TO CITE RULES AND RSMo

**RULES**—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

**RSMo**—The most recent version of the statute containing the section number and the date.

**T**he Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2008.

## EXECUTIVE ORDER 09-09

WHEREAS, the Department of Higher Education is authorized pursuant to Article IV, sections 12 and 52 of the Missouri Constitution, and Chapter 173, RSMo; and

WHEREAS, the Department of Elementary and Secondary Education is authorized pursuant to Article IV, Section 12 of the Missouri Constitution and Chapter 161, RSMo; and

WHEREAS, the Department of Agriculture is authorized pursuant to Article IV, sections 12 and 35 of the Missouri Constitution and Chapter 261, RSMo; and

WHEREAS, the Department of Natural Resources is authorized pursuant to Article IV, sections 12 and 47 of the Missouri Constitution and Chapter 640, RSMo; and

WHEREAS, the State of Missouri has many different higher education grant and scholarship programs which are administered by a number of different government agencies; and

WHEREAS, this causes difficulty for Missouri students and their parents when they are trying to determine how much state aid is available to assist them with higher education expenses; and

WHEREAS, the A+ Schools Program is authorized pursuant to Section 160.545, RSMo, and is currently administered by the Department of Elementary and Secondary Education; and

WHEREAS, the A+ Schools Program provides scholarships to qualifying Missouri students to receive funding for two years at a community college or vocational or technical school; and

WHEREAS, the Missouri Teacher Education Scholarship Program is authorized pursuant to Section 160.276, RSMo, and is currently administered by the Department of Elementary and Secondary Education; and

WHEREAS, the Missouri Minority Teaching Scholarship Program is authorized pursuant to Section 161.415, RSMo, and is currently administered by the Department of Elementary and Secondary Education; and

WHEREAS, the Urban Flight and Rural Needs Scholarship Program is authorized pursuant to Section 173.232, RSMo, and is currently administered by the Department of Elementary and Secondary Education; and

WHEREAS, the Large Animal Veterinary Student Loan Program is authorized pursuant to Sections 340.335 through 340.396, RSMo, and is currently administered by the Missouri Department of Agriculture; and

WHEREAS, the Minority and Underrepresented Environmental Literacy Program is authorized pursuant to Section 640.240, RSMo, and is currently administered by the Department of Natural Resources; and

WHEREAS, the Department of Higher Education already administers the vast majority of state grants and scholarships; and

WHEREAS, the Department of Higher Education has significant expertise in all areas of higher education funding; and

WHEREAS, centralizing state grant and scholarship programs in the Department of Higher Education allows Missouri students and their parents to work with one agency when they apply for various types of financial aid and have questions about post-secondary education; and

WHEREAS, the mission of the Department of Higher Education is to deliver an affordable, quality, coordinated post-secondary education system and increase successful participation, benefiting all Missourians; and

WHEREAS, I am committed to promoting new pathways to higher education and consolidating executive branch operations to ensure that the state delivers vital services in the most efficient and effective manner possible.

NOW, THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the laws of the State of Missouri, do hereby order the Departments of Agriculture, Elementary and Secondary Education, Higher Education, and Natural Resources to:

1. Transfer all the authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the education assistance portion of the A+ Schools Program, the Missouri Teacher Education Scholarship Program, the Missouri Minority Teaching Scholarship Program, the Urban Flight and Rural Needs Scholarship Program, the Large Animal Veterinary Student Loan Program, and the Minority and Underrepresented Environmental Literacy Program to the Department of Higher Education by Type I transfer, as defined under the Reorganization Act of 1974.
2. Develop mechanisms and processes necessary to effectively transfer the above scholarship programs to the Department of Higher Education.
3. Transfer the responsibility for staff support for the above scholarship programs to the Department of Higher Education.

This Order shall become effective no sooner than August 28, 2009, unless disapproved within sixty days of its submission to the First Regular Session of the 95<sup>th</sup> General Assembly.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 4<sup>th</sup> day of February, 2009.

Jeremiah W. (Jay) Nixon  
Governor

ATTEST:

Robin Carnahan  
Secretary of State

## EXECUTIVE ORDER

09-10

WHEREAS, the Department of Elementary and Secondary Education is authorized pursuant to Article IV, Section 12 of the Missouri Constitution and Chapter 161, RSMo; and

WHEREAS, the Department of Economic Development is authorized pursuant to Article IV, sections 12 and 36(a) of the Missouri Constitution and Chapter 620, RSMo; and

WHEREAS, Sections 620.470 through 620.481, RSMo, authorize the Missouri Job Development Fund and the state's Customized Training Program; and

WHEREAS, the Missouri Customized Training Program is currently administered by two state departments, as section 620.478, RSMo, outlines that appropriations from the fund go to the Department of Elementary and Secondary Education for the purpose of contractual services for vocational-related training; and

WHEREAS, the Missouri Customized Training Program assists eligible businesses by providing funding to reduce training costs, raise and maintain the skill level of Missouri's workers, and improve productivity to remain competitive; and

WHEREAS, the Missouri Customized Training Program focuses on new and expanding industries that are tied to high wages and state-identified business clusters; and

WHEREAS, Missouri's other industry training programs are already assigned to the Department of Economic Development; and

WHEREAS, the Department of Economic Development's mission is to promote economic growth and the department is the lead agency on workforce issues for Missouri businesses; and

WHEREAS, current duties for delivering similar services assigned to these two state departments are duplicative, inefficient, and ineffective; and

WHEREAS, state funding for customized training programs should be streamlined and will be more efficient if administered by a single state agency; and

WHEREAS, I am committed to promoting creation of new, competitive wage jobs and consolidating executive branch operations to ensure that the state delivers vital services in the most efficient and effective manner possible.

NOW, THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the laws of the State of Missouri, do hereby order the Department of Elementary and Secondary Education and the Department of Economic Development to:

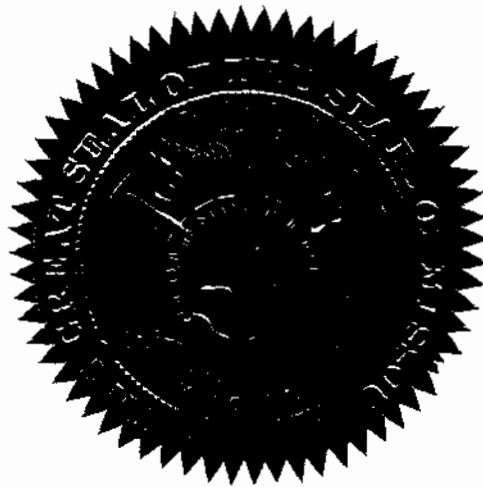
1. Transfer all the authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the Missouri Customized Training Program to the Department of Economic Development by Type I transfer, as defined under the Reorganization Act of 1974.



2. Develop mechanisms and processes necessary to effectively transfer the Customized Training Program to the Department of Economic Development.
3. Transfer the responsibility for staff support for the Customized Training Program to the Department of Economic Development.

This Order shall become effective no sooner than August 28, 2009, unless disapproved within sixty days of its submission to the First Regular Session of the 95<sup>th</sup> General Assembly.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 4<sup>th</sup> day of February, 2009.



Jeremiah W. (Jay) Nixon  
Governor

ATTEST:

Robin Carnahan  
Secretary of State

**EXECUTIVE ORDER**

09-11

WHEREAS, the Department of Health and Senior Services is authorized pursuant to Chapter 192, RSMo; and

WHEREAS, Section 192.935, RSMo, places administration of the Blindness Education, Screening and Treatment (BEST) Program Fund with the Department of Health and Senior Services; and

WHEREAS, the Missouri Department of Social Services is authorized pursuant to Article IV, Section 12, of the Missouri Constitution and Chapter 660, RSMo; and

WHEREAS, Chapter 209 governs the Department of Social Services' programs related to persons with visual, hearing, or physical disabilities; and

WHEREAS, the Department of Social Services' Family Support Division oversees Rehabilitation Services for the Blind; and

WHEREAS, the Rehabilitation Services for the Blind's stated mission is to create opportunities for eligible blind and visually impaired persons in order that they may attain personal and vocational success; and

WHEREAS, a portion of the BEST Program's funding was transferred from the Department of Health and Senior Services to the Department of Social Services in the Fiscal Year 2008 budget and additional funding was added to the Department of Health and Senior Services' budget for children's eye examinations in Fiscal Year 2009; and

WHEREAS, current duties for delivering similar services assigned to these two state departments are duplicative, inefficient, and ineffective; and

WHEREAS, I am committed to consolidating executive branch operations to ensure that the state delivers vital services in the most efficient and effective manner possible.

NOW, THEREFORE, I, JEREMIAH W. (JAY) NIXON, GOVERNOR OF THE STATE OF MISSOURI, by virtue of the authority vested in me by the Constitution and the laws of the State of Missouri, do hereby order the Department of Health and Senior Services and the Department of Social Services to:

1. Transfer all the authority, powers, duties, functions, records, personnel, property, contracts, budgets, matters pending, and other pertinent vestiges of the BEST Program to the Department of Social Services by Type I transfer, as defined under the Reorganization Act of 1974.
2. Develop mechanisms and processes necessary to effectively transfer the BEST Program to the Family Support Division's Rehabilitation Services for the Blind in the Department of Social Services.
3. Transfer the responsibility for staff support for the program to the Department of Social Services' Family Support Division.

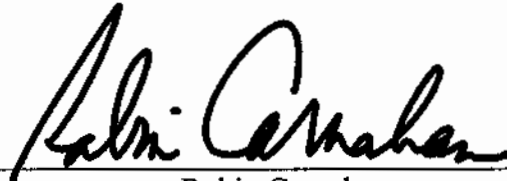
This Order shall become effective no sooner than August 28, 2009, unless disapproved within sixty days of its submission to the First Regular Session of the 95<sup>th</sup> General Assembly.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 4<sup>th</sup> day of February, 2009.

  
Jeremiah W. (Jay) Nixon  
Governor

ATTEST:

  
Robin Carnahan  
Secretary of State

**U**nder this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

**E**ntirely new rules are printed without any special symbolology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

**A**n important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

**I**f an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

**A**n agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

**I**f an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

*minor children's net worth must be considered as the total net worth of the individual; and*

*(B) If a partnership—net worth must include the net value of the partners' capital accounts.]*

*[(4)](3) The applicant must be unable to obtain a loan of equivalent terms from conventional sources without participation by the authority.*

*AUTHORITY: section 348.075, RSMo [1986] 2000. Original rule filed July 12, 1984, effective Oct. 11, 1984. Amended: Filed Feb. 11, 2009.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Agricultural and Small Business Development Authority, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 100—Missouri Agricultural and Small  
Business Development Authority  
Chapter 2—Beginning Farmer Loan Program**

**PROPOSED AMENDMENT**

**2 CSR 100-2.030 Time and Manner of Filing Application.** The Missouri Agricultural and Small Business Development Authority is deleting sections (3) and (5).

*PURPOSE: This amendment removes the requirements that the applicant must submit their application at least twenty (20) working days before the board meeting in which it will be considered and removes the requirement that the lender must file three (3) copies of the application.*

*[(3) A complete application must be on file for at least twenty (20) working days prior to the authority meeting at which the application will be considered.]*

*[(4)](3) The application shall be jointly executed by the applicant and the lender on forms provided by the authority.*

*[(5) Three (3) complete copies of the application must be filed by the lender.]*

*AUTHORITY: section 348.075, RSMo [1986] 2000. Original rule filed July 12, 1984, effective Oct. 11, 1984. Amended: Filed Feb. 11, 2009.*

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

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

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 100—Missouri Agricultural and Small  
Business Development Authority  
Chapter 2—Beginning Farmer Loan Program**

**PROPOSED AMENDMENT**

**2 CSR 100-2.020 Applicant Eligibility Requirements.** The Missouri Agricultural and Small Business Development Authority is deleting section (3).

*PURPOSE: This amendment removes the net worth qualification for the program.*

*[(3) The applicant must have a low or moderate net worth not to exceed one hundred fifty thousand dollars (\$150,000). The net worth of an applicant includes:*

*(A) If an individual—the individual, individual's spouse and*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Agricultural and Small Business Development Authority, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 100—Missouri Agricultural and Small  
Business Development Authority  
Chapter 2—Beginning Farmer Loan Program**

**PROPOSED AMENDMENT**

**2 CSR 100-2.040 Fees.** The Missouri Agricultural and Small Business Development Authority is amending sections (1) and (2).

*PURPOSE: This amendment increases the fees to pay for the bond counsel and Missouri Department Of Economic Development's bond issuance, as well as other administrative costs of the program.*

(1) The authority will receive a nonrefundable *[fifty dollar (\$50)]* **three hundred dollar (\$300)** application fee submitted with the application.

(2) The authority will receive a program participation fee equal to *[one and one-half percent (1 1/2%)]* **one and fifty-five hundredths percent (1.55%)** of the amount of the loan, but not less than five hundred dollars (\$500) upon loan closing.

*AUTHORITY: section 348.075, RSMo [1986] 2000. Original rule filed July 12, 1984, effective Oct. 11, 1984. Amended: Filed Feb. 15, 1991, effective July 8, 1991. Amended: Filed Feb. 11, 2009.*

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

*PRIVATE COST: This proposed amendment is estimated to cost all affected parties three thousand seven hundred thirty-five dollars and sixty-two cents (\$3,735.62) per year in total.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Agricultural and Small Business Development Authority, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**FISCAL NOTE  
PRIVATE COST**

**I. RULE NUMBER**

**Department Title: Department Of Agriculture**  
**Division Title: Missouri Agricultural and Small Business Development Authority**  
**Chapter Title: Beginning Farmer Loan Program**

**Rule Number and Name: 2 CSR 100-2.040**

**Type of Rulemaking: Ammendment**

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by type of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
Approximately 12 farmers per year	Beginning farmers applying for this program would be affected	\$3735.62 per year

**III. WORKSHEET**

$$(12 \text{ applicants per year} \times \$122,604) \times .05\% + (12 \times \$250) = 3735.62$$

**IV. ASSUMPTIONS**

Over the history of this program, there have been approximately 12 applicants per year with an average bond amount of \$122,604.

**Title 2—DEPARTMENT OF AGRICULTURE  
Division 100—Missouri Agricultural and Small  
Business Development Authority  
Chapter 10—New Generation Cooperative Incentive  
Tax Credit Program**

**PROPOSED AMENDMENT**

**2 CSR 100-10.010 Description of Operation, Definitions, and Method of Distribution and Repayment of Tax Credits.** The Missouri Agricultural and Small Business Development Authority is amending subsections (3)(A), (B), and (C).

*PURPOSE: This amendment changes the priority for tax credit allocation and updates the sunset to reflect current statute.*

(3) Operation of the Program.

(A) Application—New generation cooperative applicants may submit applications to the authority on a continuous basis. In Fiscal Year 2001 through December 31, [2010] 2016 (when the tax credit provision expires), up to six (6) million dollars in tax credits are available per fiscal year. Of these tax credit allocation amounts, each year the authority will reserve ten percent (10%) of the credits for “small capital projects.” The balance of tax credits will be available to “large capital projects” and “employee qualified capital projects.” After December 31 of each year, the authority will release any unallocated “small capital projects” tax credits for “large capital projects” and “employee qualified capital projects” or any unallocated “large capital projects” and “employee qualified capital projects” tax credits to “small capital projects.”

(B) Issuance—Tax credits will be issued on a first-come, first-serve basis when the required criteria specified herein is met. If the authority receives more tax credit applications [(FORM A)] than the amount of available tax credits then those credits which exceed the available amount will be placed on a waiting list to be issued once additional tax credits become available.

(C) Allocation—[In allocating tax credits to projects, priority will be given to those projects not having previously received a new generation cooperative incentive tax credit allocation.] The authority will provide a letter of conditional approval to any eligible new generation cooperative applicant that conforms to the law and guidelines stated herein. The amount of tax credits which may be issued to a member will be the least of:

1. Fifty percent (50%) of the member’s cash investment;
2. Fifteen thousand dollars (\$15,000);
3. Member’s proration of the maximum amount of tax credits allocated to the project as described below.

*AUTHORITY: section 348.432, RSMo Supp. [2004] 2008. Original rule filed July 26, 2001, effective Jan. 30, 2002. Amended: Filed Dec. 15, 2004, effective June 30, 2005. Amended: Filed Feb. 11, 2009.*

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

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

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Agricultural and Small Business Development Authority, PO Box 630, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

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

NOTE: 4 CSR 240-3.162 was published in the February 3, 2009 issue of the *Missouri Register* (33 MoReg 187–196) as it appears here. The rule is being republished in its entirety to add a new hearing date for the rule. Please see the Notice of Hearing at the end of the rule for the new date and time.

**PROPOSED RULE**

**4 CSR 240-3.162 Electric Utility Environmental Cost Recovery Mechanisms Filing and Submission Requirements**

*PURPOSE: This rule implements the provisions of Senate Bill 179, codified at section 386.266, RSMo Supp. 2007, which permits the commission to authorize the inclusion of an environmental cost recovery mechanism in utility rates.*

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

(A) EFIS means the electronic filing and information system of the commission;

(B) Electric utility means electrical corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapters 386 and 393, RSMo;

(C) Environmental compliance plan means a twenty (20)-year forecast of environmental compliance investments and a detailed four (4)-year plan for complying with federal, state, and local environmental laws, regulations, and rules. The four (4)-year plan will include plans to use emission allowances for compliance, plans for emission allowance transactions, and, on a generation unit basis, plans for investments in emission control equipment. The environmental compliance plan shall be consistent with the implementation plan of the most recent resource plan filing except as otherwise explained by the electric utility. Approval of an Environmental Cost Recovery Mechanism (ECRM) does not imply approval or predetermination of prudence of the environmental compliance plan;

(D) Environmental Cost Recovery Mechanism (ECRM) means a mechanism established in a general rate proceeding that allows periodic rate adjustments, outside a general rate proceeding, to reflect the net increases or decreases in an electric utility’s environmental revenue requirement, plus additional environmental costs incurred since the prior general rate proceeding;

(E) Environmental costs means prudently incurred costs, both capital and expense, directly related to compliance with any federal, state, or local environmental law, regulation, or rule.

1. Environmental costs do not include fuel and purchased power costs as defined in 4 CSR 240-3.161(1)(A).

2. Prudently incurred costs do not include any increased costs resulting from negligent or wrongful acts or omissions by the utility;

(F) The environmental revenue requirement shall be comprised of the following:

1. All expensed environmental costs that are included in the electric utility’s revenue requirement in the general rate proceeding in which the ECRM is established; and

2. The costs of any major capital projects whose primary purpose is to permit the electric utility to comply with any federal, state, or local environmental law, regulation, or rule. Representative examples of such capital projects to be included (as of the date of adoption of this rule) are electrostatic precipitators, fabric filters, nitrous oxide emissions control equipment, and flue gas desulfurization equipment. The costs of such capital projects shall be those identified on the electric utility’s books and records as of the last day of the test year, as updated, utilized in the general rate proceeding in which the ECRM is established;

(G) General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs, or rates and charges, of the electric utility are considered by the commission; and

(H) Rate class is a customer class defined in an electric utility's tariff. Generally, rate classes include Residential, Small General Service, Large General Service, and Large Power Service, but may include additional rate classes. Each rate class includes all customers served under all variations of the rate schedules available to that class.

(2) When an electric utility files to establish an ECRM as described in 4 CSR 240-20.091(2), the electric utility shall file the following supporting information as part of, or in addition to, its direct testimony:

(A) An example of the notice to be provided to customers as required by 4 CSR 240-20.091(2)(E);

(B) An example customer bill showing how the proposed ECRM shall be separately identified on affected customers' bills in accordance with 4 CSR 240-20.091(8);

(C) Proposed ECRM rate schedules;

(D) A general description of the design and intended operation of the proposed ECRM;

(E) A complete explanation of how the proposed ECRM is reasonably designed to provide the electric utility a sufficient opportunity to earn a fair return on equity;

(F) A complete explanation of how the proposed ECRM shall be true-up to reflect over- or under-collections on at least an annual basis;

(G) A complete description of how the proposed ECRM is compatible with the requirement for prudence reviews;

(H) A complete explanation of all the costs that shall be considered for recovery under the proposed ECRM and the specific account used for each cost item on the electric utility's books and records;

(I) A complete explanation of all of the costs, both capital and expense, incurred to comply with any current federal, state, or local environmental law, regulation, or rule that the electric utility is proposing be included in base rates and the specific account used for each cost item on the electric utility's books and records;

(J) A complete explanation of all the revenues that shall be considered in the determination of the amount eligible for recovery under the proposed ECRM and the specific account where each such revenue item is recorded on the electric utility's books and records;

(K) A complete explanation of any feature designed into the proposed ECRM or any existing electric utility policy, procedure, or practice that can be relied upon to ensure that only prudent costs shall be eligible for recovery under the proposed ECRM;

(L) For each of the major categories of costs that the electric utility seeks to recover through its proposed ECRM, a complete explanation of the specific rate class cost allocations and rate design used to calculate the proposed environmental revenue requirement and any subsequent ECRM rate adjustments during the term of the proposed ECRM;

(M) A complete explanation of any change in business risk to the electric utility resulting from implementation of the proposed ECRM in setting the electric utility's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the electric utility;

(N) The electric utility's environmental compliance plan including a complete description of—

1. The electric utility's long-term environmental compliance planning process;

2. The analysis performed to develop the electric utility's environmental compliance plan; and

3. If the environmental compliance plan is inconsistent with the electric utility's most recent resource plan filing, a detailed explanation of why such inconsistencies exist; and

(O) Authorization for the commission staff to release the previous five (5) years of historical surveillance reports submitted to the commission staff by the electric utility to all parties to the case.

(3) When an electric utility files a general rate proceeding following the general rate proceeding that established its ECRM as described by 4 CSR 240-20.091(2) in which it requests that its ECRM be continued or modified, the electric utility shall file with the commission and serve parties, as provided in sections (9) through (11) in this rule, the following supporting information as part of, or in addition to, its direct testimony:

(A) An example of the notice to be provided to customers as required by 4 CSR 240-20.091(2)(E);

(B) If the electric utility proposes to change the identification of the ECRM on the customer's bill, an example customer bill showing how the proposed ECRM shall be separately identified on affected customers' bills, including the proposed language, in accordance with 4 CSR 240-20.091(8);

(C) Proposed ECRM rate schedules;

(D) A general description of the design and intended operation of the proposed ECRM;

(E) A complete explanation of how the proposed ECRM is reasonably designed to provide the electric utility a sufficient opportunity to earn a fair return on equity;

(F) A complete explanation of how the proposed ECRM shall be true-up to reflect over- or under-collections on at least an annual basis;

(G) A complete description of how the proposed ECRM is compatible with the requirement for prudence reviews;

(H) A complete explanation of all the costs that shall be considered for recovery under the proposed ECRM and the specific account used for each cost item on the electric utility's books and records;

(I) A complete explanation of all of the costs, both capital and expense, incurred to comply with any current federal, state, or local environmental law, regulation, or rule that the electric utility is proposing be included in base rates and the specific account used for each cost item on the electric utility's books and records;

(J) A complete explanation of all the revenues that shall be considered in the determination of the amount eligible for recovery under the proposed ECRM and the specific account where each such revenue item is recorded on the electric utility's books and records;

(K) A complete explanation of any feature designed into the proposed ECRM or any existing electric utility policy, procedure, or practice that can be relied upon to ensure that only prudent costs shall be eligible for recovery under the proposed ECRM;

(L) For each of the major categories of costs that the electric utility seeks to recover through its proposed ECRM, a complete explanation of the specific rate class cost allocations and rate design used to calculate the proposed environmental revenue requirement and any subsequent ECRM rate adjustments during the term of the proposed ECRM;

(M) A complete explanation of any change in business risk to the electric utility resulting from implementation of the proposed ECRM in setting the electric utility's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the electric utility;

(N) A description of how responses to subsections (3)(B) through (M) differ from responses to subsections (3)(B) through (M) for the currently approved ECRM;

(O) The electric utility's environmental compliance plan including a complete description of—

1. The electric utility's long-term environmental compliance planning process;

2. The analysis performed to develop the electric utility's environmental compliance plan; and

3. If the environmental compliance plan is inconsistent with the electric utility's most recent resource plan filing, a detailed explanation of why such inconsistencies exist; and



(P) Any additional information that may have been ordered by the commission in the prior general rate proceeding to be provided.

(4) When an electric utility files a general rate proceeding following the general rate proceeding that established its ECRM as described in 4 CSR 240-20.091(3) in which it requests that its ECRM be discontinued, the electric utility shall file with the commission and serve parties, as provided in sections (9) through (11) in this rule, the following supporting information as part of, or in addition to, its direct testimony:

(A) An example of the notice to be provided to customers as required by 4 CSR 240-20.091(3)(B);

(B) A complete explanation of how the over-collection or under-collection of the ECRM that the electric utility is proposing to discontinue shall be handled;

(C) A complete explanation of why the ECRM is no longer necessary to provide the electric utility a sufficient opportunity to earn a fair return on equity;

(D) A complete explanation of any change in business risk to the electric utility resulting from discontinuation of the ECRM in setting the electric utility's allowed return, in addition to any other changes in business risk experienced by the electric utility; and

(E) Any additional information that may have been ordered by the commission in the prior general rate proceeding to be provided.

(5) Each electric utility with an ECRM shall submit, with an affidavit attesting to the veracity of the information, the following information on a monthly basis to the manager of the auditing department of the commission, the Office of the Public Counsel (OPC), and others, as provided in sections (9) through (11) in this rule. The information may be submitted to the manager of the auditing department through EFIS. The following information shall be aggregated by month and supplied no later than sixty (60) days after the end of each month when the ECRM is in effect. The first submission shall be made within sixty (60) days after the end of the first complete month after the ECRM goes into effect. It shall contain, at a minimum, the following:

(A) The revenues billed pursuant to the ECRM by rate class and voltage level, as applicable;

(B) The revenues billed through the electric utility's base rate allowance by rate class and voltage level;

(C) All significant factors that have affected the level of ECRM revenues along with workpapers documenting these significant factors;

(D) The difference, by rate class and voltage level, as applicable, between the total billed ECRM revenues and the projected ECRM revenues;

(E) Any additional information ordered by the commission to be provided; and

(F) To the extent any of the requested information outlined above is provided in response to another section, the information only needs to be provided once.

(6) Each electric utility with an ECRM shall submit, with an affidavit attesting to the veracity of the information, a Surveillance Monitoring Report, which shall be treated as highly confidential, as required in 4 CSR 240-20.091(9), to the manager of the auditing department of the commission, OPC, and others, as provided in sections (9) through (11) in this rule. The information may be submitted to the manager of the auditing department through EFIS.

(A) There are five (5) parts to the electric utility Surveillance Monitoring Report. Each part, except Part One, Rate Base Quantifications, shall contain information for the last twelve (12)-month period and the last quarter data for total company electric operations and Missouri jurisdictional operations. Part One, Rate Base Quantifications, shall contain only information for the ending date of the period being reported. The form of the Surveillance Monitoring Report form is included herein.

1. Rate Base Quantifications Report. The quantification of rate base items on page one shall be consistent with the methods or procedures used in the most recent rate proceeding unless otherwise specified. The report shall consist of specific rate base quantifications of—

- A. Plant in service;
- B. Reserve for depreciation;
- C. Materials and supplies;
- D. Cash working capital;
- E. Fuel inventory;
- F. Prepayments;
- G. Other regulatory assets;
- H. Customer advances;
- I. Customer deposits;
- J. Accumulated deferred income taxes;
- K. Any other item included in the utility's rate base in the most recent rate proceeding;
- L. Net Operating Income from page three; and
- M. Calculation of the overall return on rate base.

2. Capitalization Quantifications Report. Page two shall consist of specific capitalization quantifications of—

- A. Common stock equity (net);
- B. Preferred stock (par or stated value outstanding);
- C. Long-term debt (including current maturities);
- D. Short-term debt; and
- E. Weighted cost of capital including component costs.

3. Income Statement. Page three shall consist of an income statement containing specific quantification of—

- A. Operating revenues to include sales to industrial, commercial, and residential customers, sales for resale, and other components of total operating revenues;
- B. Operating and maintenance expenses for fuel expense, production expenses, purchased power energy, and capacity;
- C. Transmission expenses;
- D. Distribution expenses;
- E. Customer accounts expenses;
- F. Customer service and information expenses;
- G. Sales expenses;
- H. Administrative and general expenses;
- I. Depreciation, amortization, and decommissioning expense;
- J. Taxes other than income taxes;
- K. Income taxes; and
- L. Quantification of heating degree and cooling degree days, actual and normal.

4. Jurisdictional Allocation Factor Report. Page four shall consist of a listing of jurisdictional allocation factors for the rate base, capitalization quantification reports, and income statement.

5. Financial Data Notes. Page five shall consist of notes to financial data including, but not limited to:

- A. Out-of-period adjustments;
- B. Specific quantification of material variances between actual and budget financial performance;
- C. Material variances between current twelve (12)-month period and prior twelve (12)-month period revenue;
- D. Expense level of items ordered by the commission to be tracked pursuant to the order establishing the ECRM;
- E. Budgeted capital projects;
- F. Events that materially affect debt or equity surveillance components; and

G. All settlements in regards to environmental compliance causing the electric utility to incur expenses or make investments in excess of one hundred thousand dollars (\$100,000) or fines against the electric utility in regards to environmental compliance greater than one hundred thousand dollars (\$100,000).

(B) The Surveillance Monitoring Report shall contain any additional information ordered by the commission to be provided.

(C) The electric utility shall annually submit its approved budget, in electronic form, based upon its budget year in a format similar to

the Surveillance Monitoring Report. The budget submission shall provide a quarterly and annual quantification of the electric utility's income statement. The budget shall be submitted within thirty (30) days of its approval by the electric utility's management or within sixty (60) days of the beginning of the electric utility's fiscal year, whichever is earliest. The budget submission shall be treated as highly confidential pursuant to 4 CSR 240-2.135.

(D) If the electric utility has a rate adjustment mechanism as defined in 4 CSR 240-20.090(1)(G), the surveillance report submitted by the electric utility as required by 4 CSR 240-3.161(6) along with information submitted in response to subparagraph (6)(A)5.G. shall meet the surveillance reporting required by this section.

(7) When an electric utility files tariff schedules to adjust an ECRM rate as described in 4 CSR 240-20.091(4) with the commission, and serves upon parties as provided in sections (9) through (11) in this rule, the tariff schedules must be accompanied by supporting testimony, and at least the following supporting information:

(A) The following information shall be included with the filing:

1. For the period from which historical costs are used to adjust the ECRM rate:

A. Emission allowance costs differentiated by purchases, swaps, and loans;

B. Net revenues from emission allowance sales, swaps, and loans;

C. Extraordinary costs not to be passed through, if any, due to such costs being an insured loss, or subject to reduction due to litigation, or for any other reason;

D. Base rate component of environmental compliance costs and revenues;

E. Identification of capital projects placed in service that were not anticipated in the previous general rate proceeding; and

F. Any additional requirements ordered by the commission in the prior general rate proceeding;

2. The levels of environmental capital costs and expenses in the base rate revenue requirement from the prior general rate proceeding;

3. The levels of environmental capital costs in the base rate revenue requirement from the prior general rate proceeding as adjusted for the proposed date of the periodic adjustment;

4. The capital structure as determined in the prior general rate proceeding;

5. The cost rates for the electric utility's debt and preferred stock as determined in the prior general rate proceeding;

6. The electric utility's cost of common equity as determined in the prior general rate proceeding;

7. Calculation of the proposed ECRM collection rates; and

8. Calculations underlying any seasonal variation in the ECRM collection rates; and

(B) Workpapers supporting all items in subsection (7)(A) shall be submitted to the manager of the auditing department and served upon parties as provided in sections (9) through (11) in this rule. The workpapers may be submitted to the manager of the auditing department through EFIS.

(8) When an electric utility that has an ECRM files its application containing its annual true-up with the commission, as described in 4 CSR 240-20.091(5), any rate schedule filing must be accompanied by supporting testimony, and the electric utility shall—

(A) File the following information with the commission and serve upon parties as provided in sections (9) through (11) in this rule:

1. Amount of costs that it has over-collected or under-collected through the ECRM by rate class and voltage level, as applicable;

2. Proposed adjustments or refunds by rate class and voltage level as applicable;

3. Electric utility's short-term borrowing rate; and

4. Any additional information ordered by the commission;

(B) Submit the following information to the manager of the audit-

ing department and serve upon the parties as provided in sections (9) through (11) in this rule. The information may be submitted to the manager of the auditing department through EFIS.

1. Workpapers detailing how the determination of the over-collection or under-collection of costs through the ECRM was made including any model inputs and outputs and the derivation of any model inputs.

2. Workpapers detailing the proposed adjustments or refunds.

3. Basis for the electric utility's short-term borrowing rate.

4. Any additional information ordered by the commission to be provided.

(9) Providing to other parties items required to be filed or submitted in preceding sections (3) through (8). Information required to be filed with the commission or submitted to the manager of the auditing department of the commission and to OPC in sections (3) through (8) shall also be, in the same format, served on or submitted to any party to the related general rate proceeding in which the ECRM was approved by the commission, periodic adjustment proceeding, annual true-up, prudence review, or general rate case to modify, extend, or discontinue the same ECRM, pursuant to the procedures in 4 CSR 240-2.135 for handling confidential information, including any commission order issued thereunder.

(10) Party status and providing to other parties affidavits, testimony, information, reports, and workpapers in related proceedings subsequent to general rate proceeding establishing ECRM.

(A) A person or entity granted intervention in a general rate proceeding in which an ECRM is approved by the commission shall be a party to any subsequent related periodic adjustment proceeding, annual true-up, or prudence review, without the necessity of applying to the commission for intervention. In any subsequent general rate proceeding, such person or entity must seek and be granted status as an intervenor to be a party to that case. Affidavits, testimony, information, reports, and workpapers to be filed or submitted in connection with a subsequent related periodic adjustment proceeding, annual true-up, prudence review, or general rate case to modify, extend, or discontinue the same ECRM shall be served on or submitted to all parties from the prior related general rate proceeding and on all parties from any subsequent related periodic adjustment proceeding, annual true-up, prudence review, or general rate case to modify, extend, or discontinue the same ECRM, concurrently with filing the same with the commission or submitting the same to the manager of the auditing department of the commission and OPC, pursuant to the procedures in 4 CSR 240-2.135 for handling confidential information, including any commission order issued thereunder.

(B) A person or entity not a party to the general rate proceeding in which an ECRM is approved by the commission may timely apply to the commission for intervention, pursuant to 4 CSR 240-2.075(2) through (4) of the commission's rule on intervention, respecting any related subsequent periodic adjustment proceeding, annual true-up, or prudence review, or, pursuant to 4 CSR 240-2.075(1) through (5), respecting any subsequent general rate case to modify, extend, or discontinue the same ECRM. If no party to a subsequent periodic adjustment proceeding, annual true-up, or prudence review objects within ten (10) days of the filing of an application for intervention, the applicant shall be deemed as having been granted intervention without a specific commission order granting intervention, unless within the above-referenced ten (10)-day period the commission denies the application for intervention on its own motion. If an objection to the application for intervention is filed on or before the end of the above-referenced ten (10)-day period, the commission shall rule on the application and the objection within ten (10) days of the filing of the objection.

(11) Discovery. The results of discovery from a general rate proceeding where the commission may approve, modify, reject, extend,

or discontinue an ECRM, or from any subsequent periodic adjustment proceeding, annual true-up, or prudence review relating to the same ECRM, may be used without a party resubmitting the same discovery requests (data requests, interrogatories, requests for production, requests for admission, or depositions) in the subsequent proceeding to parties that produced the discovery in the prior proceeding, subject to a ruling by the commission concerning any evidentiary objection made in the subsequent proceeding.

(12) Supplementing and updating data requests in subsequent related proceedings. If a party, which submitted data requests relating to a proposed ECRM in the general rate proceeding where the ECRM was established or in the general rate proceeding where the same ECRM was modified or extended, or in any subsequent related periodic adjustment proceeding, annual true-up, or prudence review, wants the responding party to whom the prior data requests were submitted to supplement or update that responding party's prior responses for possible use in a subsequent related periodic adjustment proceeding, annual true-up, prudence review, or general rate case to modify, extend, or discontinue the same ECRM, the party which previously submitted the data requests shall submit an additional data request to the responding party to whom the data requests were previously submitted which clearly identifies the particular data requests to be supplemented or updated and the particular period to be covered by the updated response. A responding party to a request to supplement or update shall supplement or update a data request response from: a related general rate proceeding where a ECRM was established; a general rate case where the same ECRM was modified or extended; or a related periodic adjustment proceeding, annual true-up, or prudence review, which the responding party has learned or subsequently learns is in some material respect incomplete or incorrect.

(13) Separate cases for each general rate proceeding involving an ECRM and for each mutually exclusive twelve (12)-month annual true-up period of an ECRM. Each general rate proceeding where the commission may approve, modify, or reject an ECRM; each general rate case where the commission may authorize the modification, extension, or discontinuance of an ECRM; and each mutually exclusive twelve (12)-month period of an ECRM that encompasses an annual true-up, prudence review, and possible periodic adjustments shall comprise a separate case. The same procedures for handling confidential information shall apply, pursuant to 4 CSR 240-2.135, as in the immediately preceding ECRM case for the particular electric utility, unless otherwise directed by the commission on its own motion or as requested by a party and directed by the commission.

(14) New ECRM. For the purposes of this rule, an ECRM, if continued, modified, or extended in a general rate case, even in substantially the form approved in the prior general rate proceeding, shall be considered to be a new distinct ECRM after each general rate proceeding required by section 386.266.4(3), RSMo.

(15) Right to Discovery Unaffected. In addressing certain discovery matters and the provision of certain information by electric utilities, this rule is not intended to restrict the discovery rights of any party.

(16) Waivers. Provisions of this rule may be waived by the commission for good cause shown.

(17) Rule Review. The commission shall review the effectiveness of this rule by no later than December 31, 2011, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.

**Electric Company**  
**12 Months Ended \_\_\_\_\_**  
**Per Books**  
**(IN THOUSANDS OF DOLLARS)**  
**FINANCIAL SURVEILLANCE MONITORING REPORT**  
**RATE BASE AND RATE OF RETURN**

<u>Total Company Rate Base</u>	<u>Measurement Basis</u>	<u>12 Months Ended</u>
Plant in Service		
Intangible	End of Period	xxx,xxx
Production – Steam	End of Period	xxx,xxx
Production – Nuclear	End of Period	xxx,xxx
Production – Hydraulic	End of Period	xxx,xxx
Production – Other	End of Period	xxx,xxx
Transmission	End of Period	xxx,xxx
Distribution	End of Period	xxx,xxx
General	End of Period	xxx,xxx
Total Plant in Service	End of Period	\$ x,xxx,xxx
Reserve for Depreciation		
Intangible	End of Period	xxx,xxx
Production – Steam	End of Period	xxx,xxx
Production – Nuclear	End of Period	xxx,xxx
Production – Hydraulic	End of Period	xxx,xxx
Production – Other	End of Period	xxx,xxx
Transmission	End of Period	xxx,xxx
Distribution	End of Period	xxx,xxx
General	End of period	xxx,xxx
Total Reserve for Depreciation		<u>x,xxx,xxx</u>
Net Plant		x,xxx,xxx
Add:		
Materials & Supplies	13 Mo. Avg.	x,xxx,xxx
Cash	(from prior rate case including offsets)	x,xxx,xxx
Fuel Inventory	13 Mo. Avg.	x,xxx,xxx
Prepayments	13 Mo. Avg.	x,xxx,xxx
Other Regulatory Assets	End of Period	x,xxx,xxx
Less:		
Customer Advances	13 Mo. Avg.	x,xxx,xxx
Customer Deposits	13 Mo. Avg.	x,xxx,xxx
Accumulated Deferred Income Taxes	End of Period	x,xxx,xxx
Other Regulatory Liabilities	End of Period	x,xxx,xxx
Other Items from Prior Rate Case	Per rate case method	<u>x,xxx,xxx</u>
(A) Total Rate Base		<u>\$ x,xxx,xxx</u>
(B) Net Operating Income		\$ x,xxx,xxx
(C) Return on Rate Base Base [ (B) / (A) ]		

**Electric Company**  
**12 Months Ended**  
**Per Books**  
**(IN THOUSANDS OF DOLLARS)**  
**FINANCIAL SURVEILLANCE MONITORING REPORT**  
**CAPITAL STRUCTURE AND RATE OF RETURN**

	<u>Overall Cost of Capital</u>		
	<u>Amount</u>	<u>Percent</u>	<u>Weighted Cost</u>
Long-Term Debt	\$ x,xxx,xxe	x.xx%	x.xx% f
Short-Term Debt	x,xxx,xxe	x.xx%	x.xx% f
Preferred Stock	x,xxx,xxe	x.xx%	x.xx% f
Other	x,xxx,xxe	x.xx%	x.xx% f
Common Equity	x,xxx,xxe	x.xx%	x.xx% a
<b>Total Overall Cost of Capital based on Rate Case</b>	<b>\$ x,xxx,xxx</b>	<b>100.00%</b>	<b>x.xx%</b>

	<u>Actual Earned Return on Equity</u>		
	<u>Amount</u>	<u>Percent</u>	<u>Weighted Cost</u>
Long-Term Debt	\$ x,xxx,xxe	x.xx%	x.xx% f
Short-Term Debt	x,xxx,xxe	x.xx%	x.xx% f
Preferred Stock	x,xxx,xxe	x.xx%	x.xx% f
Other	x,xxx,xxe	x.xx%	x.xx% f
Common Equity	x,xxx,xxe	x.xx%	x.xx% c
<b>Total Overall Cost of Capital with Actual Return On Equity</b>	<b>\$ x,xxx,xxx</b>	<b>100.00%</b>	<b>x.xx% b</b>

a From last general rate case, Report & Order  
 b From actual Return on Rate Base, page 1 "Rate Base"  
 c Calculated after actual Return on Rate Base, per footnote B, is determined  
 d Other capital structure components from last general rate case, Report & Order  
 e Actual balance at end of period  
 f Actual average cost at end of period

Note Additional breakdown may be added per Report & Order authorizing a recovery clause under 4 CSR 240-20

**Electric Company**  
**Quarter Ended and 12 Months Ended \_\_\_\_\_**  
**Per Books**  
**(IN THOUSANDS OF DOLLARS)**  
**FINANCIAL SURVEILLANCE MONITORING REPORT**  
**OPERATING INCOME STATEMENT**

	Quarter Ended Actual	12 Months Ended Actual
<b>Operating Revenues</b>		
Sales to Residential, Commercial, & Industrial Customers		
Residential	\$ x,xxx,xxx	\$ x,xxx,xxx
Commercial	x,xxx,xxx	x,xxx,xxx
Industrial	x,xxx,xxx	x,xxx,xxx
Total of Sales to Residential, Commercial, & Industrial Customers	\$ x,xxx,xxx	\$ x,xxx,xxx
Other Sales to Ultimate customers (Sales for Resale)	x,xxx,xxx	x,xxx,xxx
Off-system Sales	x,xxx,xxx	x,xxx,xxx
Other Sales for Resale	x,xxx,xxx	x,xxx,xxx
Provision for Refunds	x,xxx,xxx	x,xxx,xxx
Other Operating Revenues	<u>x,xxx,xxx</u>	<u>x,xxx,xxx</u>
<b>Operating Revenues</b>	<b><u>\$ x,xxx,xxx</u></b>	<b><u>\$ x,xxx,xxx</u></b>
<b>Operating &amp; Maintenance Expenses:</b>		
Production Expenses:		
Fuel Expense		
Native Load	x,xxx,xxx	x,xxx,xxx
Off-System Sales	x,xxx,xxx	x,xxx,xxx
Other Production-Operations	x,xxx,xxx	x,xxx,xxx
Other Production-Maintenance	x,xxx,xxx	x,xxx,xxx
Purchased Power-Energy		
Native Load	x,xxx,xxx	x,xxx,xxx
Off System Sales	x,xxx,xxx	x,xxx,xxx
Purchased Power-Capacity	<u>x,xxx,xxx</u>	<u>x,xxx,xxx</u>
Total Production Expenses	x,xxx,xxx	x,xxx,xxx
Transmission Expenses	x,xxx,xxx	x,xxx,xxx
Distribution Expenses	x,xxx,xxx	x,xxx,xxx
Customer Accounts Expense	x,xxx,xxx	x,xxx,xxx
Customer Serve. & Info. Expenses	x,xxx,xxx	x,xxx,xxx
Sales Expenses	x,xxx,xxx	x,xxx,xxx
Administrative & General Expenses	<u>x,xxx,xxx</u>	<u>x,xxx,xxx</u>
<b>Total Operating &amp; Maintenance Expenses</b>	<b><u>\$ x,xxx,xxx</u></b>	<b><u>\$ x,xxx,xxx</u></b>
Depreciation & Amortization Expense		
Depreciation Expense	x,xxx,xxx	x,xxx,xxx
Amortization Expense	x,xxx,xxx	x,xxx,xxx
Decommissioning Expense	x,xxx,xxx	x,xxx,xxx
Other	<u>x,xxx,xxx</u>	<u>x,xxx,xxx</u>
Total Depreciation & Amortization Expense	x,xxx,xxx	x,xxx,xxx
Taxes Other than Income Taxes	<u>xxx,xxx</u>	<u>xxx,xxx</u>
<b>Operating Income Before Income Tax</b>	<b>x,xxx,xxx</b>	<b>x,xxx,xxx</b>
Income Taxes	xxx,xxx	x,xxx,xxx
<b>Net Operating Income</b>	<b><u>\$ x,xxx,xxx</u></b>	<b><u>\$ x,xxx,xxx</u></b>
Actual Cooling Degree Days	<u>x,xxx</u>	<u>x,xxx</u>
Normal Cooling Degree Days	<u>x,xxx</u>	<u>x,xxx</u>
Actual Heating Degree Days	<u>x,xxx</u>	<u>x,xxx</u>
Normal Heating Degree Days	<u>x,xxx</u>	<u>x,xxx</u>

**Electric Company**  
**12 Months Ended**  
**FINANCIAL SURVEILLANCE MONITORING REPORT**  
**Missouri Jurisdictional Allocation Factors**

<u>Description</u>	<u>Allocation Factor</u>
Plant in Service	
Intangible	
Production – Steam	
Production – Nuclear	
Production – Hydraulic	
Production – Other	
Transmission	
Distribution	
General	
Depreciation Reserve	
Intangible	
Production – Steam	
Production – Nuclear	
Production – Hydraulic	
Production – Other	
Transmission	
Distribution	
General	
Net Plant	
Materials & supplies	
Cash Working Capital	per rate case
Fuel Inventory	
Prepayments	
Other Regulatory Assets	Jurisdictional Specific
Customer Advances	
Customer Deposits	
Accumulated Deferred Income Taxes	
Other Regulatory Liabilities	Jurisdictional Specific
Other Items from Prior Rate Case	
Operating Revenues	
Interchange Revenues	
Production Expenses:	
Fuel Expense	
Native Load	
Off-System Sales	
Other Production – Operations	
Other Production – Maintenance	
Purchased Power – Energy	
Native Load	
Off-System Sales	
Purchased Power – Capacity	
Total Production Expenses	
Transmission Expenses	
Distribution Expenses	
Customer Accounts Expense	
Customer Serve. & Info. Expenses	
Sales Expenses	
Administrative & General Expenses	
Depreciation Expense	
Depreciation Expense	
Amortization Expense	
Decommissioning Expense	
Taxes, Other than Income	
Income Taxes	
Other Items	
XXXX	
XXXX	
XXXX	

Note                      Additional breakdown may be added per Report & Order authorizing a recovery clause under 4 CSR 240-20

**Electric Company**  
**Quarter Ended and 12 Months Ended \_\_\_\_\_**  
**Per Books**  
**FINANCIAL SURVEILLANCE MONITORING REPORT**

**NOTES TO FINANCIAL SURVEILLANCE REPORT**



*AUTHORITY: sections 386.250 and 393.140, RSMo 2000, and section 386.266, RSMo Supp. 2007. Original rule filed Oct. 31, 2007, effective June 30, 2008, terminated Jan. 4, 2009. Refiled: Dec. 31, 2008.*

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

*PRIVATE COST: This proposed rule 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 rule with the Missouri Public Service Commission, Colleen M. Dale, 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 April 15, 2009, and should include a reference to Commission Case No. EX-2009-0252. 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.mo.gov/efis.asp>>. A public hearing regarding this proposed rule is scheduled for April 15, 2009, at 1:00 PM in Room 305 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule and may be asked to respond to commission questions.*

*SPECIAL NEEDS: 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.*

**Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT**  
**Division 240—Public Service Commission**  
**Chapter 20—Electric Utilities**

NOTE: 4 CSR 240-20.091 was published in the February 3, 2009 issue of the *Missouri Register* (33 MoReg 196-196) as it appears here. The rule is being republished in its entirety to add a new hearing date for the rule. Please see the Notice of Hearing at the end of the rule for the new date and time.

**PROPOSED RULE**

**4 CSR 240-20.091 Electric Utility Environmental Cost Recovery Mechanisms**

*PURPOSE: This rule allows the establishment of an Environmental Cost Recovery Mechanism, which allows periodic rate adjustments to reflect net increases or decreases in an electric utility's prudently incurred costs directly related to compliance with any federal, state, or local environmental law, regulation, or rule.*

(1) Definitions. As used in this rule, the following terms mean as follows:

(A) Electric utility means electrical corporation as defined in section 386.020, RSMo, subject to commission regulation pursuant to Chapters 386 and 393, RSMo;

(B) Environmental Cost Recovery Mechanism (ECRM) means a mechanism established in a general rate proceeding that allows periodic rate adjustments, outside a general rate proceeding, to reflect the net increases or decreases in an electric utility's incurred envi-

ronmental costs;

(C) Environmental costs means prudently incurred costs, both capital and expense, directly related to compliance with any federal, state, or local environmental law, regulation, or rule.

1. Environmental costs do not include fuel and purchased power costs as defined in 4 CSR 240-20.090(1)(B).

2. Prudently incurred costs do not include any increased costs resulting from negligent or wrongful acts or omissions by the utility;

(D) The environmental revenue requirement shall be comprised of the following:

1. All expensed environmental costs that are included in the electric utility's revenue requirement in the general rate proceeding in which the ECRM is established; and

2. The costs of any major capital projects whose primary purpose is to permit the electric utility to comply with any federal, state, or local environmental law, regulation, or rule. Representative examples of such capital projects to be included (as of the date of adoption of this rule) are electrostatic precipitators, fabric filters, nitrous oxide emissions control equipment, and flue gas desulfurization equipment. The costs of such capital projects shall be those identified on the electric utility's books and records as of the last day of the test year, as updated, utilized in the general rate proceeding in which the ECRM is established;

(E) General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs, or rates and charges, of the electric utility are considered by the commission;

(F) Rate class is a customer class as defined in an electric utility's tariff. Generally, rate classes include Residential, Small General Service, Large General Service, and Large Power Service, but may include additional rate classes. Each rate class includes all customers served under all variations of the rate schedules available to that class;

(G) Staff means the staff of the Public Service Commission; and

(H) True-up year means the twelve (12)-month period beginning on the first day of the first calendar month following the effective date of the commission order approving an ECRM unless the effective date is on the first day of the calendar month. If the effective date of the commission order approving a rate mechanism is on the first day of a calendar month, then the true-up year begins on the effective date of the commission order. The first annual true-up period shall end on the last day of the twelfth calendar month following the effective date of the commission order establishing the ECRM. Subsequent true-up years shall be the succeeding twelve (12)-month periods. If a general rate proceeding is concluded prior to the conclusion of a true-up year, the true-up year may be less than twelve (12) months. If the commission approves both a fuel adjustment clause mechanism and an ECRM for the electric utility, the true-up year will be the same for both.

(2) Applications to Establish, Continue, or Modify an ECRM. Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 386.266, RSMo, only an electric utility in a general rate proceeding may file an application with the commission to establish, continue, or modify an ECRM by filing tariff schedules. Any party in a general rate proceeding in which an ECRM is in effect or proposed may seek to continue, modify, or oppose the ECRM. The commission shall approve, modify, or reject such applications to establish an ECRM only after providing the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that may affect the costs or overall rates and charges of the petitioning electric utility.

(A) The commission may approve the establishment, continuation, or modification of an ECRM and rate schedules implementing an ECRM provided that it finds that the ECRM it approves is reasonably designed to provide the electric utility with a sufficient opportunity to earn a fair return on equity.

(B) The commission may take into account any change in business

risk to the utility resulting from establishment, continuation, or modification of the ECRM in setting the electric utility's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the electric utility.

(C) In determining which environmental cost components to include in an ECRM, the commission will consider, but is not limited to only considering, the magnitude of the costs, the ability of the utility to manage the costs, the incentive provided to the utility as a result of the inclusion or exclusion of the cost, and the extent to which the cost is related to environmental compliance.

(D) The commission may, in its discretion, determine what portion of prudently incurred environmental costs may be recovered in an ECRM and what portion shall be recovered in base rates.

(E) Any party to the general rate proceeding may oppose the establishment, continuation, or modification of an ECRM and/or may propose alternative ECRMs for the commission's consideration, including but not limited to modifications to the electric utility's proposed ECRM.

(F) The ECRM shall be based on known and measurable environmental costs that have been incurred by the electric utility.

(G) If an ECRM is approved, the commission shall determine the base environmental revenue requirement.

(H) If costs are requested to be recovered through the ECRM and the revenue to be collected in the ECRM rate schedules exceeds two and one-half percent (2.5%) of the electric utility's Missouri annual gross jurisdictional revenues, the electric utility cannot subsequently request that any cost identified as an environmental cost be recovered through a fuel rate adjustment mechanism.

(I) The electric utility shall include in its initial notice to customers regarding the general rate case, a commission approved description of how the costs passed through the proposed ECRM requested shall be applied to monthly bills.

(J) The electric utility shall meet the filing requirements in 4 CSR 240-3.162(2), in conjunction with an application to establish an ECRM, and 4 CSR 240-3.162(3), in conjunction with an application to continue or modify an ECRM.

(3) Application for Discontinuation of an ECRM. The commission shall allow or require the rate schedules that define and implement an ECRM to be discontinued and withdrawn only after providing the opportunity for a full hearing in a general rate proceeding. The commission shall consider all relevant factors that affect the cost or overall rates and charges of the petitioning electric utility.

(A) Any party to the general rate proceeding may oppose the discontinuation of an ECRM on the grounds that the electric utility is currently experiencing, or in the next four (4) years is likely to experience, declining costs. If the commission finds that the electric utility is seeking to discontinue the ECRM under these circumstances, the commission shall not permit the ECRM to be discontinued, and shall order its continuation or modification. To continue or modify the ECRM under such circumstances, the commission must find that it provides the electric utility with a sufficient opportunity to earn a fair rate of return on equity.

(B) The commission may take into account any change in business risk to the corporation resulting from discontinuance of the ECRM in setting the electric utility's allowed return in any rate proceeding, in addition to any other changes in business risk experienced by the electric utility.

(C) The electric utility shall include, in its initial notice to customers regarding the general rate case, a commission approved description of why it believes the ECRM should be discontinued.

(D) Subsections (2)(C) through (2)(H) shall apply to any proposal for continuation or modification.

(E) The electric utility shall meet the filing requirements in 4 CSR 240-3.162(4).

(4) Periodic Adjustments of ECRMs. If an electric utility files proposed rate schedules to adjust its ECRM rates between general rate

proceedings, the staff shall examine and analyze the information filed by the electric utility in accordance with 4 CSR 240-3.162 and additional information obtained through discovery, if any, to determine if the proposed adjustment to the ECRM is in accordance with the provisions of this rule, section 386.266, RSMo, and the ECRM established in the most recent general rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff schedules to adjust its ECRM rates. If the ECRM rate adjustment is in accordance with the provisions of this rule, section 386.266, RSMo, and the ECRM established in the most recent general rate proceeding, the commission shall either issue an interim rate adjustment order approving the tariff schedules and the ECRM rate adjustments within sixty (60) days of the electric utility's filing or, if no such order is issued, the tariff schedules and the ECRM rate adjustments shall take effect sixty (60) days after the tariff schedules were filed. If the ECRM rate adjustment is not in accordance with the provisions of this rule, section 386.266, RSMo, or the ECRM established in the most recent rate proceeding, the commission shall reject the proposed rate schedules within sixty (60) days of the electric utility's filing and may instead order implementation of an appropriate interim rate schedule(s).

(A) The periodic adjustments shall be limited to the expense items and the capital projects that are used to determine the environmental revenue requirement in the previous general rate proceeding and those investments or expenses necessary to comply with the electric utility's Environmental Compliance Plan for the period the ECRM is in effect.

1. The costs for capital projects will be eligible for recovery via a periodic adjustment so long as the capital cost of the item when it is placed into service is greater than or equal to the original cost (as of the time that such least costly capital item was placed into service) of the least costly capital item that was included in the environmental revenue requirement (to be determined as provided in 4 CSR 240-20.091(1)(D)); and

2. Waivers from the limitations in this subsection (4)(A) may be sought for capital projects placed into service that could not have been anticipated in the previous general rate proceeding or that do not meet the threshold provided for in the immediately preceding sentence.

(B) The periodic adjustment shall reflect a comprehensive measurement of both increases and decreases to the environmental revenue requirement established in the prior general rate proceeding plus the additional environmental costs incurred since the prior rate proceeding.

(C) Any periodic adjustment made to ECRM rate schedules shall not generate an annual amount of general revenue that exceeds two and one-half percent (2.5%) of the electric utility's Missouri gross jurisdictional revenues established in the electric utility's most recent general rate proceeding.

1. Missouri gross jurisdictional revenues shall be the amount established in the electric utility's most recent general rate proceeding and exclude gross receipts tax, sales tax, and other similar pass-through taxes not included in tariffed rates for regulated services;

2. The electric utility shall be permitted to collect any applicable gross receipts tax, sales tax, or other similar pass-through taxes and such taxes shall not be counted against the two and one-half percent (2.5%) rate adjustment cap; and

3. Any environmental costs, to the extent addressed by the ECRM, not recovered as a result of the two and one-half percent (2.5%) limitation on rate adjustments may be deferred, at a carrying cost each month equal to the utility's net of tax cost of capital, for recovery in a subsequent year or in the utility's next general rate proceeding.

(D) An electric utility with an ECRM shall file one (1) mandatory adjustment to its ECRM in each true-up year coinciding with the true-up of its ECRM. It may also file one (1) additional adjustment to its ECRM within a true-up year with the timing and number of

such additional filings to be determined in the general rate proceeding establishing the ECRM and in general rate proceedings thereafter.

(E) The electric utility must be current on its submission of its Surveillance Monitoring Reports as required in section (9) and its monthly reporting requirements as required by 4 CSR 240-3.162(5) in order for the commission to process the electric utility's requested ECRM adjustment increasing rates.

(F) If the staff, Office of the Public Counsel (OPC), or other party who receives the information that the electric utility is required to submit in 4 CSR 240-3.162 and as ordered by the commission in a previous proceeding, believes that the information required to be submitted pursuant to 4 CSR 240-3.162 and the commission order establishing the ECRM has not been submitted in compliance with that rule, it shall notify the electric utility within ten (10) days of the electric utility's filing of an application or tariff schedules to adjust the ECRM rates and identify the information required. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was in compliance with the requirements of 4 CSR 240-3.162, within ten (10) days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel, the processing time line for the adjustment to increase ECRM rates shall be suspended. If the commission then issues an order requiring the information be provided, the time necessary for the information to be provided shall further extend the processing time line for the adjustment to increase ECRM rates. For good cause shown the commission may further suspend this timeline. Any delay in providing sufficient information in compliance with 4 CSR 240-3.162 in a request to decrease ECRM rates shall not alter the processing timeline.

(5) True-ups of an ECRM. An electric utility that files for an ECRM shall include in its tariff schedules and application, if filed in addition to tariff schedules, provision for true-ups on at least an annual basis which shall accurately and appropriately remedy any over-collection or under-collection through subsequent rate adjustments or refunds.

(A) The subsequent true-up rate adjustments or refunds shall include interest at the electric utility's short-term borrowing rate. The interest rate on accumulated ECRM under-collections or over-collections shall be calculated on a monthly basis for each month the ECRM rate is in effect, equal to the weighted average interest rate paid by the electric utility on short-term debt for that calendar month. This rate shall then be applied to a simple average of the same month's beginning and ending cumulative ECRM over-collection or under-collection balance. Each month's accumulated interest shall be included in the ECRM over-collection or under-collection balances on an ongoing basis.

(B) The true-up adjustment shall be the difference between the revenue collected and the revenue authorized for collection during the true-up period and billed revenues associated with the ECRM during the true-up period.

(C) The electric utility must be current on its submission of its Surveillance Monitoring Reports as required in section (9) and its monthly reporting requirements as required by 4 CSR 240-3.162(5) at the time that it files its application for a true-up of its ECRM in order for the commission to process the electric utility's requested annual true-up of any under-collection.

(D) The staff shall examine and analyze the information filed by the electric utility pursuant to 4 CSR 240-3.162 and additional information obtained through discovery, to determine whether the true-up is in accordance with the provisions of this rule, section 386.266, RSMo, and the ECRM established in the electric utility's most recent general rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff schedules

for a true-up. The commission shall either issue an order deciding the true-up within sixty (60) days of the electric utility's filing, suspend the timeline of the true-up in order to receive additional evidence and hold a hearing if needed, or, if no such order is issued, the tariff schedules and the ECRM rate adjustments shall take effect by operation of law sixty (60) days after the electric utility's filing.

1. If the staff, OPC, or other party who receives the information that the electric utility is required to submit in 4 CSR 240-3.162 and, as ordered by the commission in a previous proceeding, believes the information that is required to be submitted pursuant to 4 CSR 240-3.162 and the commission order establishing the ECRM has not been submitted or is insufficient to make a recommendation regarding the electric utility's true-up filing, it shall notify the electric utility within ten (10) days of the electric utility's filing and identify the information required. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was responsive to the requirements, within ten (10) days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel, the processing timeline for the adjustment to the ECRM rates shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing timeline. For good cause shown the commission may further suspend this timeline.

2. If the party requesting the information can demonstrate to the commission that the adjustment shall result in a reduction in the ECRM rates, the processing timeline shall continue with the best information available. When the electric utility provides the necessary information, the ECRM shall be adjusted again, if necessary, to reflect the additional information provided by the electric utility.

(6) Duration of ECRMs and Requirement for General Rate Case. Once an ECRM is approved by the commission, it shall remain in effect for a term of not more than four (4) years unless the commission earlier authorizes the modification, extension, or discontinuance of the ECRM in a general rate proceeding, although an electric utility may submit proposed rate schedules to implement periodic adjustments to its ECRM rates between general rate proceedings.

(A) If the commission approves an ECRM for an electric utility, the electric utility must file a general rate case with the effective date of new rates to be no later than four (4) years after the effective date of the commission order implementing the ECRM, assuming the maximum statutory suspension of the rates so filed.

(B) The four (4)-year period shall not include any periods in which the electric utility is prohibited from collecting any charges under the adjustment mechanism, or any period for which charges collected under the ECRM must be fully refunded. In the event a court determines that the ECRM is unlawful and all moneys collected are fully refunded as a result of such a decision, the electric utility shall be relieved of any obligation to file a rate case. The term fully refunded as used in this section does not include amounts refunded as a result of reductions in net environmental compliance costs or prudence adjustments.

(7) Prudence Reviews Respecting an ECRM. A prudence review of the costs subject to the ECRM shall be conducted no less frequently than at eighteen (18)-month intervals.

(A) All amounts ordered refunded by the commission shall include interest at the electric utility's short-term borrowing rate. The interest shall be calculated on a monthly basis in the same manner as described in subsection (5)(A).

(B) The staff shall submit a recommendation regarding its examination and analysis to the commission not later than one hundred eighty (180) days after the staff initiates its prudence audit. The timing and frequency of prudence audits for each ECRM shall be established in the general rate proceeding in which the ECRM is established. The staff shall file notice within ten (10) days of starting its

prudence audit. The commission shall issue an order not later than two hundred ten (210) days after the staff commences its prudence audit if no party to the proceeding in which the prudence audit is occurring files, within one hundred ninety (190) days of the staff's commencement of its prudence audit, a request for a hearing.

1. If the staff, OPC, or other party auditing the ECRM believes that insufficient information has been supplied to make a recommendation regarding the prudence of the electric utility's ECRM, it may utilize discovery to obtain the information it seeks. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel the processing timeline shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing timeline. For good cause shown, the commission may further suspend this timeline.

2. If the timeline is extended due to an electric utility's failure to timely provide sufficient responses to discovery, and a refund is due to the customers, the electric utility shall refund all imprudently incurred costs plus interest at the electric utility's short-term borrowing rate. The interest shall be calculated on a monthly basis in the same manner as described in subsection (5)(A).

(8) Disclosure on Customers' Bills. Any amounts charged under an ECRM approved by the commission shall be separately disclosed on each customer's bill. Proposed language regarding this disclosure shall be submitted to the commission for the commission's approval.

(9) Submission of Surveillance Monitoring Reports. Each electric utility with an approved ECRM shall submit to staff, OPC, and parties approved by the commission a Surveillance Monitoring Report in the form and having the content provided for by 4 CSR 240-3.162(6).

(A) The Surveillance Monitoring Report shall be submitted within fifteen (15) days of the electric utility's next scheduled United States Securities and Exchange Commission (SEC) 10-Q or 10-K filing with the initial submission within fifteen (15) days of the electric utility's next scheduled SEC 10-Q or 10-K filing following the effective date of the commission order establishing the ECRM.

(B) If the electric utility also has an approved fuel rate adjustment mechanism, the electric utility must submit a single Surveillance Monitoring Report for both the ECRM and the fuel rate adjustment mechanism. However, for the Surveillance Monitoring Report to be complete for the ECRM, it must include a list of all settlements in regards to environmental compliance causing the electric utility to incur expenses or make investments in excess of one hundred thousand dollars (\$100,000) or fines against the electric utility in regards to environmental compliance greater than one hundred thousand dollars (\$100,000) as required in 4 CSR 240-3.162(6)(A)5.G.

(C) Upon a finding that a utility has knowingly or recklessly provided materially false or inaccurate information to the commission regarding the surveillance data prescribed in 4 CSR 240-3.162(6), after notice and an opportunity for a hearing, the commission may suspend an ECRM or order other appropriate remedies as provided by law.

(10) Pre-Existing Adjustment Mechanisms, Tariffs, and Regulatory Plans. The provisions of this rule shall not affect the following:

(A) Any adjustment mechanism, rate schedule, tariff, incentive plan, or other ratemaking mechanism that was approved by the commission and in effect prior to the effective date of this rule; and

(B) Any experimental regulatory plan that was approved by the commission and in effect prior to the effective date of this rule.

(11) Nothing in this rule shall preclude a complaint case from being filed, as provided by law, on the grounds that a utility is earning more than a fair return on equity, nor shall an electric utility be permitted to use the existence of its ECRM as a defense to a complaint case

based upon an allegation that it is earning more than a fair return on equity. If a complaint is filed on the grounds that a utility is earning more than a fair return on equity, the commission shall issue a procedural schedule that includes a clear delineation of the case timeline no later than sixty (60) days from the date the complaint is filed.

(12) Rule Review. The commission shall review the effectiveness of this rule by no later than December 31, 2011, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.

(13) Waiver of Provisions of this Rule. Provisions of this rule may be waived by the commission for good cause shown after an opportunity for a hearing.

*AUTHORITY: sections 386.250 and 393.140, RSMo 2000 and section 386.266, RSMo Supp. 2007. Original rule filed Oct. 31, 2007, effective June 30, 2008, terminated Jan. 4, 2009. Refiled: Dec. 31, 2008.*

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*PRIVATE COST: This proposed rule 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 rule with the Missouri Public Service Commission, Colleen M. Dale, 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 April 15, 2009, and should include a reference to Commission Case No. EX-2009-0252. 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.mo.gov/efis.asp>>. A public hearing regarding this proposed rule is scheduled for April 15, 2009, at 1:00 pm in Room 305 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Interested persons may appear at this hearing to submit additional comments and/or testimony in support of or in opposition to this proposed rule, and may be asked to respond to commission questions.*

*SPECIAL NEEDS: 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.*

**Title 13—DEPARTMENT OF SOCIAL SERVICES  
Division 70—MO HealthNet Division  
Chapter 3—Conditions of Provider Participation,  
Reimbursement and Procedure of General Applicability**

**PROPOSED AMENDMENT**

**13 CSR 70-3.190 Telehealth Services.** The division is amending sections (1)–(3) and (5)–(8).

*PURPOSE: This amendment adds an additional service location, further defines requirements, and adds to definitions.*

(1) Administration.

(B) Definitions.

1. Community Mental Health Center (CMHC) means a legal entity through which comprehensive mental health services are provided

to individuals residing in a certain service area.

2. Consultation means a type of evaluation and management service as defined by the most recent edition of the Current Procedural Terminology published annually by the American Medical Association.

3. Consulting provider means a provider who evaluates the patient and appropriate medical data or images through a Telehealth mode of delivery, upon recommendation of the referring provider.

4. [CPT code means a code used for reporting procedures and services performed by physicians or other licensed medical professionals which is published annually by the American Medical Association in Current Procedural Terminology.] **Comprehensive Substance Treatment and Rehabilitation (CSTAR) means a MO HealthNet qualified and enrolled outpatient substance abuse treatment program. Coverage is targeted to MO HealthNet-eligible participants who are assessed as requiring substance abuse treatment.**

5. Department means the Department of Social Services.

[9.]6. [Hub site (originating site)] **Distant site** means a Telehealth site where the health care provider providing the Telehealth service is physically located at the time [of] the Telehealth service **is provided** and is considered the place of service.

[6.]7. Division means the MO HealthNet Division, within the Department of Social Services.

[7.]8. GT modifier means a modifier that identifies a Telehealth service which is approved by the Healthcare Common Procedure Coding System (HCPCS).

[8.]9. Health care provider means a:

- A. Missouri licensed physician;
- B. Missouri licensed advanced registered nurse practitioner;
- C. Missouri licensed dentist or oral surgeon;
- [D.] Missouri community mental health center;
- [E.]D. Missouri licensed psychologist **or provisional licensee;**

[F.]E. Missouri licensed pharmacist; or

[G.]F. Missouri licensed speech, occupational, or physical therapist.

10. MTN means the Missouri Telehealth Network.

[15.]11. [Spoke site (distant site)] **Originating site** means a Telehealth site where the MO HealthNet participant receiving the Telehealth service is located for the encounter. **The originating site must ensure immediate availability of clinical staff during a Telehealth encounter in the event a participant requires assistance. [A spoke] An originating site must be one of the following locations:**

- A. Office of a physician or health care provider;
- B. Hospital;
- C. Critical access hospital;
- D. Rural health clinic;
- E. Federally Qualified Health Center;
- F. Nursing home;
- G. Dialysis center;
- H. Missouri [S]state [H]habilitation [C]center or [R]region-  
al [Center] office;
- I. Community [M]mental [H]health [C]center;
- J. Missouri state mental health facility; [or]
- K. Missouri state facility[.];

**L. Missouri residential treatment facility—licensed by and under contract with the Children’s Division (CD) and has a contract with the CD. Facilities must have multiple campuses and have the ability to adhere to technology requirements addressed in this rule. Only Missouri licensed psychiatrists, licensed psychologists or provisionally licensed psychologists, and advanced registered nurse practitioners who are enrolled MO HealthNet providers may be consulting providers at these locations; or**

**M. Comprehensive Substance Treatment and Rehabilitation (CSTAR) program.**

[11.]12. Participant means an individual eligible for medical

assistance benefits on behalf of needy persons through MO HealthNet, under section 208.151, RSMo.

[12.]13. Presenting provider means a provider who:

A. Introduces a patient to a consulting provider for examination, observation, or consideration of medical information; and

B. May assist in the [telemedicine consultation] **Telehealth encounter.**

[13.]14. Telepresenter means a person **who is an employee of the originating site and is** with the patient during the time of the encounter who aids in the examination by following the orders of the consulting clinician, including the manipulation of cameras and appropriate placement of other peripheral devices used to conduct the patient examination.

[14.]15. Referring provider means a provider who evaluates a patient, determines the need for a consultation, and arranges the services of a consulting provider for the purpose of diagnosis or treatment.

16. Telehealth means the use of medical information exchanged from one (1) site to another via electronic communications to improve the health status of a patient. Telehealth means the practice of health care delivery, evaluation, diagnosis, consultation, or treatment using the transfer of medical data, audio visual, or data communications that are performed over two (2) or more locations between providers who are physically separated from the patient or from each other.

17. Telehealth service means a medical service provided through advanced telecommunications technology from a [hub] **distant site** to a participant at [a spoke] **an originating site.**

18. Two (2)-way interactive video means a type of advanced telecommunications technology that permits a real time service to take place between a participant and a presenting provider or a Telepresenter at the [spoke] **originating site** and a health care provider at the [hub] **distant site.**

(2) Covered Services.

(C) The [hub site (originating site)] **distant site** is the location where the physician or practitioner is physically located at the time of the Telehealth service. Coverage of services rendered through Telehealth at the [hub] **distant site** is limited to:

- 1. Consultations made to confirm a diagnosis; or
- 2. Evaluation and management services; or
- 3. A diagnosis, therapeutic, or interpretive service; or
- 4. Individual psychiatric or substance abuse assessment diagnostic interview examinations; or
- 5. Individual psychotherapy; or
- 6. Pharmacologic management.

(3) Eligible Providers.

(A) A health care provider utilizing Telehealth at either a [hub] **distant site** or [a spoke] **an originating site** shall be enrolled as a MO HealthNet provider pursuant to 13 CSR 70-3.020 and licensed for practice in Missouri. A health care provider utilizing Telehealth must do so in a manner that is consistent with the provisions of all laws governing the practice of the provider’s profession.

(B) A provider agrees to conform to MO HealthNet program policies and instructions as specified in the provider manuals **and bulletins**, which are incorporated by reference and made a part of this rule as published by the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109, at its website [www.dss.mo.gov/mhd](http://www.dss.mo.gov/mhd), [February 1, 2008] **April 1, 2009**. This rule does not incorporate any subsequent amendments or additions.

(5) Reimbursement.

(A) Reimbursement to the health care provider delivering the medical service at the [originating site and the] distant site [are] is made at the same amount as the current fee schedule [amount] for the service provided without the use of a telecommunication system.

(B) The claim for service will use the appropriate *[evaluation and management CPT]* procedure code for the covered services addressed in (2)(C) and the GT modifier indicating interactive communication was used.

(C) The *[spoke]* originating site is eligible to receive a facility fee. **Facility fees are not payable to the distant site.**

(6) Documentation for the Encounter. Patient records at the *[hub]* distant and *[spoke]* originating sites are to document the Telehealth encounter consistent with the service documentation described in MO HealthNet provider manuals and bulletins.

(B) A health care provider shall keep a complete medical record of a Telehealth service provided to a participant and follow applicable state and federal statutes and regulations for medical record keeping and confidentiality in accordance with *[13 CSR 70-3.020]* **13 CSR 70-3.030 and 13 CSR 70-98.015.**

(C) Documentation of a Telehealth service by the health care provider shall be included in the participant's medical record maintained at the participant's location and shall include:

1. The diagnosis and treatment plan resulting from the Telehealth service and progress note by the health care provider;
2. The location of the *[hub]* distant site and *[spoke]* originating site;
3. A copy of the signed informed consent form; and
4. Documentation supporting the medical necessity of the Telehealth service.

(7) Confidentiality and Data Integrity. All Telehealth activities must comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, **as amended**, and all other applicable state and federal laws and regulations.

(A) A Telehealth service shall be performed on a *[secure]* private, dedicated telecommunications line approved through the Missouri Telehealth Network (MTN). The telecommunications line must be secure and *[or]* utilize a method of encryption adequate to protect the confidentiality and integrity of the Telehealth service information. **The Missouri Telehealth Network must also approve the equipment that will be used in Telehealth service.**

(B) Both a *[hub]* distant site and *[a spoke]* an originating site shall use authentication and identification to ensure the confidentiality of a Telehealth service.

(8) Informed Consent.

(A) Before providing a Telehealth service to a participant, a health care provider shall document written informed consent from the participant **or the participant's legal guardian** and shall ensure that the following written information is provided to the participant in a format and manner that the participant is able to understand:

1. The participant shall have the option to refuse the Telehealth service at anytime without affecting the right to future care or treatment and without risking the loss or withdrawal of a MO HealthNet benefit to which the participant is entitled;
2. The participant shall be informed of alternatives to the Telehealth service that are available to the participant;
3. The participant shall have access to medical information resulting from the Telehealth service as provided by law;
4. The dissemination, storage, or retention of an identifiable participant image or other information from the Telehealth service shall not occur without the written informed consent of the participant or the participant's legally authorized representative;
5. The participant shall have the right to be informed of the parties who will be present at the *[spoke]* originating site and the *[hub]* distant site during the Telehealth service and shall have the right to exclude anyone from either site; and
6. The participant shall have the right to object to the videotaping or other recording of a Telehealth service.

rule filed Jan. 2, 2008, effective Aug. 30, 2008. Amended: Filed Feb. 17, 2009.

*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 TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Department of Social Services, MO HealthNet Division, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be delivered by regular mail, express or overnight mail, in person, or by courier within thirty (30) days after publication of this notice in the **Missouri Register**. If to be hand-delivered, comments must be brought to the MO HealthNet Division at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.