

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

In the Matter of Proposed Rulemaking)
Concerning Mitigation of Natural Gas)
Price Volatility.)

Case No. GX-2002-478

Fiscal Note Review

COMES NOW Staff of the Public Service Commission of Missouri and states:

1. This rulemaking case addressed the adoption of a rule on hedging of natural gas prices by local distribution companies. The Commission's Order of Rulemaking was published in the Missouri Register on November 3, 2003, and the rule became effective on December 30, 2003, thirty days after publication in the Code of State Regulations.

2. Section 536.200.2, RSMo (2000) requires agencies to make a filing with the Secretary of State if, after the first full fiscal year after implementation, the cost of the rule exceeds the agency estimate. In the memorandum that is attached as Appendix A, the Staff advises the Commission that the Staff has conducted a review, and has determined that no fiscal estimate change needs to be filed with the Secretary of State.

WHEREFORE, the Staff respectfully submits the attached Memorandum for the Commission's information and consideration.

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ Thomas R. Schwarz, Jr.

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or emailed to all counsel of record this 18th day of August, 2005.

/s/ Thomas R. Schwarz, Jr.

MEMORANDUM

TO: Case File for Case No. GX-2002-478

FROM: Tom Imhoff, on Behalf of the Commission Staff

SUBJECT: Accuracy of Cost Estimates for Rule Implementation – Compliance with the Requirements of GP-1 of the Commission's General Procedures

DATE: July 22, 2005

The Commission Staff has investigated the cost of implementing the rules adopted by the Commission through this case, and reports that it has not discovered any information that would show that the cost estimates published in the *Missouri Register* were not accurate in connection with the implementation of the Mitigation of Natural Gas Volatility Rule 4 CSR 240-40.018, in Case No. GX-2002-478.

Additionally, the Staff reports that it has not received any information from any party potentially or actually affected by the implementation of the subject rules that would show that the cost estimates published in the *Missouri Register* were not accurate.

The Commission's General Procedure GP-1 (GP-1) requires, among other things, that within 30 days before the end of the first full fiscal year after the implementation of a rule, amendment or rescission, that the Staff is to investigate whether the cost to all affected entities, including the Commission, has exceeded by ten percent or more the estimated cost in the fiscal note, or, where appropriate, has exceeded five hundred dollars.

GP-1 also requires the Staff to prepare a memorandum showing the results of their investigation within thirty (30) days after the end of the first full fiscal year of the implementation of the subject rule, amendment or rescission. If the Staff investigation shows that the costs have not exceeded ten percent for all entities or, where appropriate, the estimated five hundred dollars, Staff's Memorandum shall be entered into EFIS under the rulemaking's docket number.

While the internal time limits prescribed by GP-1 have not specifically been met, the Staff's response regarding the accuracy of the published cost estimates related to the implementation of the Mitigation of Natural Gas Volatility rule does permit timely compliance with the provisions of Section 536.200.2, RSMo 2000. This statute provides for publication in the *Missouri Register* of a report of any excess costs over estimated costs, or costs over five hundred dollars, where appropriate, within 90 days after the close of the "first full fiscal year" after the implementation of the subject rule, amendment or rescission. The Mitigation of Natural Gas Volatility rule that was the subject of this case was implemented on December 30, 2003. The first full fiscal year after implementation of the rules thus ended on June 30, 2005. Accordingly, September 28, 2005 would represent the 90-day expiration period for the publication of a report regarding excess cost information in the *Missouri Register*. Since the Staff's investigation indicates that the published cost estimates related to the implementation of the rule in the Mitigation of Natural Gas Volatility have not been exceeded, no *Missouri Register* publication is required under Section 536.200.2, RSMo 2000.