

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

In the Matter of the Proposed Amendment of the       )  
Commission's Rules Relating to Natural Gas       )  
Safety       )

**File No. GX-2016-0263**

**STAFF FISCAL NOTE REVIEW**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and, as described in the Memorandum attached hereto as Appendix A, advises the Commission that it has reviewed the accuracy of the cost estimates for the implementation of the amendments to rules 4 CSR 240-40.020, 4 CSR 240-40.030, and 4 CSR 240-40.080 published in the *Missouri Register* on December 15, 2016, (Vol. 41, No.24, pp. 1896-1907). Staff has not discovered any information which shows that the actual costs of implementing the rule amendments—not more than five hundred dollars in the aggregate for state agencies or political subdivisions for each rule amendment, and not more than five hundred dollars in the aggregate for private entities for each amendment—exceeded the \$500 cost estimates. Therefore, the Commission is not required, pursuant to Section 536.200.2, RSMo., to publish “the original estimated cost together with the actual cost during the first fiscal year ... in the Missouri Register within ninety days after the close of the fiscal year.”

**WHEREFORE**, Staff prays the Commission accept its *Fiscal Note Review*; and grant such other and further relief as the Commission deems just in the circumstances.

Respectfully submitted,

**/s/ Mark Johnson**

Mark Johnson  
Senior Counsel  
Missouri Bar No. 64940  
Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-7431 (Telephone)  
(573) 751-9285 (Fax)  
[mark.johnson@psc.mo.gov](mailto:mark.johnson@psc.mo.gov)

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was served electronically, or hand-delivered, or via First Class United States Mail, postage prepaid, on all parties of record herein on this 9<sup>th</sup> day of July, 2018.

**/s/ Mark Johnson**

## MEMORANDUM

**TO:** Missouri Public Service Commission Official Case File No. GX-2016-0263

**FROM:** Kathleen A. McNelis, P.E.  
Utility Regulatory Engineering Manager, Safety Engineering Unit

**SUBJECT:** Staff's Review of Costs Incurred for Rulemakings in the Matter of the Amendments to the Commission's Rules Relating to Natural Gas Safety, Case No. GX-2016-0263 as required by Section 536.200, RSMo and the Commission's General Procedure GP-1

**Dated:** 07/09/2018

On November 9, 2016, the Missouri Public Service Commission (Commission) issued a *Finding of Necessity and Order* to amend its rules regarding the gas pipeline safety program in Missouri State Regulations (CSR) 4 CSR 240-40.020, .030 and 0.080. The Commission proposed to amend those rules to conform with the recent amendments to the Code of Federal Regulations (CFR) at 49 CFR parts 191, 192 and 199.<sup>1</sup>

Proposed rule amendments adopting recent amendments 49 CFR parts 191, 192 and 199 into 4 CSR 240-40.020, .030 and .080 were published as Proposed Rules in the *Missouri Register* on December 15, 2016. The public comment period ended January 17, 2017 and the Commission held a public hearing on the proposed amendments on January 20, 2017. These proposed amendments were adopted without changes and Orders of Rulemaking were published amending Commission Rules 4 CSR 240-40.020, .030 and .080 in the May 1, 2017, *Missouri Register*. The effective date of these amendments was June 30, 2017.

Section 536.200, RSMo., requires among other things that:

1. Any state agency filing a notice of proposed rulemaking, as required by section 536.021, wherein the adoption, amendment, or rescission of the rule would require or result in an expenditure of public funds by or a reduction of public revenues for that agency or any other state agency of the state government or any political subdivision thereof including counties, cities, towns, and villages, and school, road, drainage, sewer, water, levee, or any other special purpose district which is estimated to cost more than five hundred dollars in the aggregate to any such agency or political subdivision, shall at the time of filing the notice with the secretary of state file a fiscal note estimating the cost to each affected agency or to each class of the various political subdivisions to be affected. The

---

<sup>1</sup> 49 U.S. Code Section 60105 – State Pipeline Safety Program Certifications requires among other things that the State agency adopt each Federal safety standard applicable to the intrastate pipelines under its jurisdiction for the State pipeline safety program to qualify for certification.

fiscal note shall contain a detailed estimated cost of compliance and shall be supported with an affidavit by the director of the department to which the agency belongs that in the director's opinion the estimate is reasonably accurate. If no fiscal note is filed, the director of the department to which the agency belongs shall file an affidavit which states that the proposed change will cost less than five hundred dollars in the aggregate to all such agencies and political subdivisions.

2. If at the end of the first full fiscal year after the implementation of the rule, amendment, or rescission the cost to all affected entities has exceeded by ten percent or more the estimated cost in the fiscal note or has exceeded five hundred dollars if an affidavit has been filed stating the proposed change will cost less than five hundred dollars, the original estimated cost together with the actual cost during the first fiscal year shall be published by the adopting agency in the Missouri Register within ninety days after the close of the fiscal year. Such costs shall be determined by the adopting agency. If the adopting agency fails to publish such costs as required by this section, the rule, amendment, or rescission shall be void and of no further force or effect.

Additionally, the Commission's General Procedure GP-1 requires that within 30 days of the end of the first full fiscal year after the implementation of the rule, amendment, or rescission, Staff should 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. Since the effective date of these amendments was June 30, 2017, June 30, 2018, will complete the first full fiscal year after implementation of the amendments.

With respect to paragraph 1 of Section 536.200, RSMo., the cost of each proposed rule was estimated at less than five hundred dollars in the aggregate to this agency, any other agency or any other political subdivision thereof on May 12, 2016.

With respect to paragraph 2 of Section 536.200, RSMo. and the Commission's General Procedure GP-1, the results of Staff's investigation of whether the cost to all affected entities, including the Commission, has exceeded by ten percent or more of the estimated cost in the fiscal note or, where appropriate, has exceeded five hundred dollars is summarized as follows:

1. Amendment to 4 CSR 240-40.020

This amendment changed the Commission rule to address the 2015 federal amendments to 49 CFR part 191, and to incorporate by reference current versions of the federal report forms. These changes to 4 CSR 240-40.020 did not involve costs to the affected entities, including the Commission, in excess of those required to comply with the federal amendments being adopted. Costs associated with the federal amendments would have been considered during the federal rulemaking process, and would have been incurred even if the Commission did not adopt these federal amendments. Therefore Staff does not find that the actual costs of

these amendments to 4 CSR 240-40.020 exceeded five hundred dollars to all affected entities during the first full fiscal year that the rule was effective.

2. Amendment to 4 CSR 240-40.030

This amendment modified the Commission rule to address federal amendments to 49 CFR part 192 promulgated between September 2013 and January 2016, and made clarifications and editorial changes. These changes to 4 CSR 240-40.030 did not involve costs to the affected entities, including the Commission, in excess of those required to comply with the federal amendments being adopted. Costs associated with the federal amendments would have been considered during the federal rulemaking process, and would have been incurred even if the Commission did not adopt these amendments. Therefore Staff does not find that the actual costs of these amendments to 4 CSR 240-40.030 exceeded five hundred dollars to all affected entities during the first full fiscal year that the rule was effective.

3. Amendment to 4 CSR 240-40.080

This change amended the Commission rule to conform to federal amendments to 49 CFR parts 40 and 199. These changes to 4 CSR 240-40.080 did not involve costs to the affected entities, including the Commission, in excess of those required to comply with the federal amendments being adopted. Costs associated with the federal amendments would have been considered during the federal rulemaking process, and would have been incurred even if the Commission did not adopt these amendments. Therefore Staff does not find that the actual costs of these amendments to 4 CSR 240-40.080 exceeded five hundred dollars to all affected entities during the first full fiscal year that the rule was effective.

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

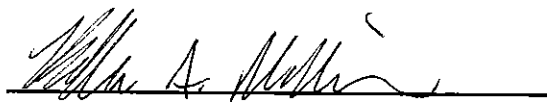
In The Matter of the Proposed Amendment of the       )  
Commission's Rules Relating to Natural Gas Safety    )  
**File No. GX-2016-0263**

**AFFIDAVIT**

State of Missouri       )  
                                      ) ss.  
County of Cole        )

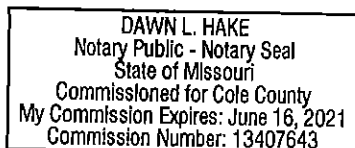
**COMES NOW** Kathleen A. McNelis, PE and on her oath declares that she is of sound mind and lawful age; that she contributed to the attached Memorandum; and that the same is true and correct according to her best knowledge and belief.

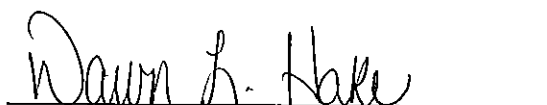
Further the Affiant sayeth not.

  
\_\_\_\_\_  
Kathleen A. McNelis, PE

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 9<sup>th</sup> day of July, 2018.



  
\_\_\_\_\_  
NOTARY PUBLIC