

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

In the Matter of the Revision of the)
Commission's Rule Regarding Gas)
Utilities)

File No. GX-2018-0390

STAFF'S MEMORANDUM

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through the undersigned counsel, and respectfully files the attached *Memorandum* pursuant to General Procedure 1, stating Staff's finding that the actual cost of implementing the rules within this docket to public and private entities has not exceeded the estimates by more than 10 percent or, where appropriate, has not exceeded five hundred dollars.

WHEREFORE, Staff files this *Memorandum* for the Commission's information and consideration.

Respectfully Submitted,

/s/ Travis J. Pringle

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand delivered, transmitted by facsimile or electronically mailed to all parties and/or counsel of record this 25th day of August, 2021.

/s/ Travis J. Pringle

MEMORANDUM

TO: Missouri Public Service Commission Official Case File No. GX-2018-0390

FROM: Robin Kliethermes, on Behalf of Commission Staff

SUBJECT: Staff's Review of Commission Rules 4 CSR 240-3.235, 260, and 275, Case No. GX-2018-0390, as required by Section 536.200, RSMo and the Commission's General Procedure GP-1

DATE: August 30, 2021

On November 28, 2018, the Missouri Public Service Commission (Commission) issued a Notice of Finding of Necessity and Order Directing that Proposed Rescissions and New Rules Be Filed for Publication. The Commission proposed to rescind the existing 4 CSR 240¹-3.235, 260 and 275, and to replace those rules with similar requirements in new rules 4 CSR 240-40.085 and 4 CSR 240-40.090.²

Original Rules 4 CSR 240-40.085 and 4 CSR 240-40.090 were filed on November 28, 2018 and a notice of proposed rulemaking was published in the Missouri Register on January 2, 2019 (44 MoReg 72-74). The public comment period ended on February 1, 2019 and a public hearing was held on February 6, 2019. The rules became effective July 30, 2019, and moved to 20 CSR 4240-40.085 and 20 CSR 4240-40.090, effective Aug. 28, 2019.

The Commission Staff has investigated the cost of implementing the rule through this case, and reports that it has not discovered any information that would show that the cost estimates for this rule as published in the *Missouri Register* were inaccurate.

Additionally, on May 26, 2021, Staff filed a Motion to Invite Comments Regarding Costs of Compliance, and reports that it has not received any information from any party potentially or actually affected by the implementation of the subject rules.

The Commission's General Procedure GP-1 ("GP-1") requires that, within 30 days before the end of the first full fiscal year after the implementation of a rule, amendment or rescission, 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.

¹ 4 CSR 240-3.235, 260, and 275 were originally filed on August, 16, 2002, and became effective on April 30, 2003. These rules were rescinded effective July 30, 2019.

² Effective August 28, 2019, all of the Commission's regulations were transferred from the Department of Economic Development's (DED) Title 4 to the Department of Commerce and Insurance's (DCI) (formerly Department of Insurance, Financial Institutions and Professional Registration) Title 20. The amended rules can now be found at 20 CSR 4240-40.085 and 40.090.

GP-1 also requires Staff to prepare a memorandum showing the results of its 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.

Staff's response regarding the accuracy of the published cost estimates is within the time frame specified by Section 536.200, RSMo 2019. This statute requires publication in the *Missouri Register* of a report of costs exceeding ten percent for all entities or cost 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 rule that was the subject of this case became effective on July 30, 2019. The first full fiscal year after implementation of the rule thus ended on June 30, 2021. Accordingly, September 28, 2021, 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 changes in the rule have not been exceeded, no *Missouri Register* publication is required under Section 536.200, RSMo 2019.

