

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

In the Matter of the Proposed	)	
Promulgation of Rule 4 CSR 240-3.440,	)	
Small Steam Heating Utility Rate Case	)	Case No. HX-2004-0082
Procedure.	)	

**FISCAL NOTE REVIEW**

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

1. This rulemaking case addressed the adoption of streamlined ratemaking procedures for small steam heating utilities. The Commission's Order of Rulemaking was published in the *Missouri Register* on March 1, 2004, and the rule became effective on April 30, 2004, 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 18<sup>th</sup> day of August, 2005.

**/s/ Thomas R. Schwarz, Jr.**

## **MEMORANDUM**

TO: Case File for Case No. HX-2004-0081 and HX-2004-0082

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 these cases, 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 Steam Heat Rule 4 CSR 240-3.440, in Case Nos. HX-2004-0081 and HX-2004-0082.

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 rule in Steam Heat 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 Steam Heat rules that were the subject of these cases were implemented on April 30, 2004. 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 these rules in Steam Heat have not been exceeded, no *Missouri Register* publication is required under Section 536.200.2, RSMo 2000.