

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

In the Matter of a Proposed Rule to Establish a)
Procedure for Water Utilities to Establish an) Case No. WX-2004-0093
Infrastructure System Replacement Surcharge)

FISCAL NOTE REVIEW

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”) and states:

1. The rulemaking that is the subject of this case involved the promulgation of a new rule pertaining to the submission of petitions for the establishment of an Infrastructure System Replacement Surcharge by eligible water utilities. The Commission’s Order of Rulemaking for the subject rule appeared in the April 15, 2004 *Missouri Register*, Volume 29, Number 8. The subject rule, 4 CSR 240-3.650, became effective on May 30, 2004, 30 days after the 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 year after implementation, the cost of the rule exceeds the agency estimate. The first full fiscal year after the subject rule became effective was the fiscal year beginning July 1, 2004 and ending June 30, 2005. In the Memorandum that is attached hereto as Appendix A, the Staff advises the Commission that the Staff has conducted a review of the fiscal estimates related to the rule adopted in this case and has determined that no fiscal estimate changes need to be filed with the Secretary of State.

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

Respectfully Submitted,

DANA K. JOYCE
General Counsel

/s/ Keith R. Krueger

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 17th day of August 2005.

/s/ Keith R. Krueger

MEMORANDUM

TO: MO PSC Case File for Case No. WX-2004-0093

FROM: Dale Johansen, on Behalf of the Commission Staff

SUBJECT: Accuracy of Cost Estimates for Implementation of Rule
Compliance with the Requirements of Section 536.200.2, RSMo

DATE: August 9, 2005

The Commission Staff has investigated the cost of implementing the rule 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 rule that was the subject of Case No. WX-2004-0093.

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.

Section 536.200.2, RSMo (2000) requires an agency to publish in the *Missouri Register* 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. As the Staff's investigation indicates that the published cost estimates related to the implementation of the subject rule have not been exceeded, no *Missouri Register* publication is required under Section 536.200.2.