

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

In the Matter of Proposed Amendment to )  
Commission Rules 4 CSR 240-3.530 and )  
4 CSR 240-3.535, and New Rules )  
4 CSR 240-3.560 and 4 CSR 240-3.565. )

**Case No. TX-2003-0389**

**FISCAL NOTE REVIEW MEMORANDUM**

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

1. In the Memorandum attached as Appendix A, the Staff advises the Commission that the Staff conducted a review of the fiscal estimates from the rules adopted in this rulemaking case, and has determined that no fiscal estimate changes need to be filed with the Secretary of State.

2. The proposed amendment to rule 4 CSR 240-3.530, adopted in this case, modified an existing Commission rule on applications for authority to acquire and issue stock. The proposed amendment to rule 4 CSR 240-3.535 was withdrawn by the Commission and requires no fiscal change estimate. New rules 4 CSR 240-3.560 and 4 CSR 240-3.565 established procedures for a telecommunications company ceasing operations or filing bankruptcy. The Commission’s Orders of Rulemaking appeared in the October 1, 2004 *Missouri Register*, Volume 29, Number 19, and became effective on November 30, 2004.

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 rules became effective was the fiscal year beginning July 1, 2005 and ending June 30, 2006.

**WHEREFORE**, Staff respectfully submits the attached Memorandum wherein the Staff states its conclusion that no fiscal estimate changes need to be filed with the Secretary of State for rules 4 CSR 240-3.530, 4 CSR 240-3.535, 4 CSR 240-3.560, and 4 CSR 240-3.565.

Respectfully submitted,

/s/ **Robert S. Berlin**

Robert S. Berlin  
Associate General Counsel  
Missouri Bar No. 51709

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Missouri Public Service Commission  
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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 26<sup>th</sup> day of July 2006.

/s/ **Robert S. Berlin**

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In the Matter of Proposed Amendment to )  
Commission Rules 4 CSR 240-3.530 and 4 )  
CSR 240-3.535, and New Rules 4 CSR )  
240-3.560 and 4 CSR 240-3.565.

Case No. **TX-2003-0389**

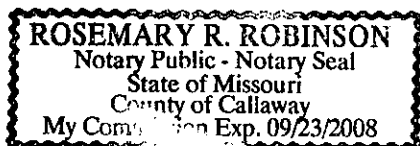
**AFFIDAVIT OF Natelle Dietrich**

STATE OF MISSOURI            )  
  ) ss:  
COUNTY OF COLE            )

Natelle Dietrich, employee of the Staff of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that she has participated in the preparation of the accompanying Rulemaking Fiscal Analysis Review Memorandum, and that the facts therein are true and correct to the best of her knowledge and belief.

Natelle Dietrich  
Natelle Dietrich

Subscribed and affirmed before me this 25<sup>th</sup> day of July, 2006,  
I am commissioned as a notary public within the County of Cole, State of Missouri  
and my commission expires on 9-23-2008



Rosemary R. Robinson  
NOTARY PUBLIC

# MEMORANDUM

To: Missouri Public Service Commission Official Case File  
Case No. TX-2003-0389

From: Natelle Dietrich  
Telecommunications Department

John Van Eschen/ July 24, 2006  
Utility Operations Division/Date

Bill Haas/ July 24, 2006  
General Counsel's Office/Date

Subject: Rulemaking Fiscal Analysis Review

Date: July 24, 2006

The Secretary of State (SOS) published the Commission's Final Order of Rulemaking for 4 CSR 240-3.530, which modified existing Commission rules on applications for authority to acquire and issue stock. The proposed amendment to rule 4 CSR 240-3.535 was withdrawn by the Commission as part of the Final Order of Rulemaking. The Commission's new rules at 4 CSR 240-3.560 and 4 CSR 240-3.565 which established procedures for a telecommunications company ceasing operations or filing bankruptcy were also included in this Final Order of Rulemaking. The rules were the subject of Case No. TX-2003-0389. The rules became effective on November 30, 2004.

Section 536.200.2 RSMo 2000 requires agencies to make a filing with the SOS if, after the first full fiscal year after implementation, the cost of the rule exceeds the agency estimates. The Commission's General Procedure 1 (GP-1) requires a Staff investigation of the fiscal impact thirty days prior to end of first full fiscal year. According to GP-1, Staff is to prepare a memorandum within thirty days after the end of the first full fiscal year addressing whether the cost to all affected entities, including the Commission, has exceeded 10% of the estimated cost (or, where appropriate, \$500) reflected in the fiscal note. If costs are more than 10% or \$500, the General Counsel prepares a filing for action by the Commission.

This memorandum advises the Commission that Staff has not discovered any information that would show the cost estimates associated with the rule were not accurate. Additionally, Staff has contacted the industry for input on the fiscal review. Staff has not received any information from any party potentially or actually affected by the implementation of this rule that would indicate the public or private cost estimates as published in the *Missouri Register* were not accurate.

Since the Staff's investigation indicates the published cost estimates related to the implementation of 4 CSR 240-3.530, 4 CSR 240-3.560 and 4 CSR 240-3.565 have not been exceeded, no *Missouri Register* publication is required under Section 536.200.2. Further, the proposed amendment to rule 4 CSR 240-3.535 was withdrawn by the Commission and requires no fiscal change estimate.