

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

In the Matter of a Proposed New Rule 4 CSR)	
240-33.160 Regarding Customer Proprietary)	Case No. TX-2003-0445
Network Information.)	

FISCAL NOTE REVIEW MEMORANDUM

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

1. This rulemaking established procedures by which telecommunications companies may use, disclose or permit access to customer proprietary network information (CPNI). The Commission's Order of Rulemaking appeared in the October 14, 2004 *Missouri Register*, Volume 29, Number 20 adopting a new rule to establish CPNI procedures. The new rule was adopted as 4 C.S.R. 240-33.160 and became effective on November 30, 2004, thirty (30) days after its 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 of 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. In the Memorandum attached as Appendix A, Staff advises the Commission that Staff conducted a review of the fiscal estimates from the rule adopted in this case and has determined that no fiscal estimate changes need to be filed with the Secretary of State.

WHEREFORE, Staff respectfully submits the attached Memorandum.

Respectfully submitted,

/s/ Jennifer Heintz

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Missouri Bar No. 57128

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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 counsel of record this 27th day of July 2006.

/s/ Jennifer Heintz

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Case No. TX-2003-0445

From: Natelle Dietrich
Telecommunications Department

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

/s/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, which proposed new Commission rule 4 CSR 240-33.160 and was the subject of Case No. TX-2003-0445. The rule established procedures by which telecommunications companies may use, disclose or permit access to customer proprietary network information. The rule 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 240-33.160 have not been exceeded, no *Missouri Register* publication is required under Section 536.200.2.

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

In the Matter of a Proposed New Rule 4)
CSR 240-33.160 Regarding Customer)
Proprietary Network Information.)

Case No. **TX-2003-0445**

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 25th 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

