

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

In the Matter of a Proposed Amendment to)
Commission Rule 4 CSR 240-2.090)
Regarding Data Requests .)

File No. AX-2014-0193

STAFF'S MEMORANDUM

COMES NOW Staff of the Missouri Public Service Commission ("Staff"), by and through counsel, and for its *Memorandum*, states as follows:

1. Section 536.200.2, RSMo., provides:

If at the end of the first full fiscal year after the implementation of the rule, amendment, or rescission the cost to all affected entities has exceeded by ten percent or more the estimated cost in the fiscal note or has exceeded five hundred dollars if an affidavit has been filed stating the proposed change will cost less than five hundred dollars, the original estimated cost together with the actual cost during the first fiscal year shall be published by the adopting agency in the Missouri Register within ninety days after the close of the fiscal year. Such costs shall be determined by the adopting agency. If the adopting agency fails to publish such costs as required by this section, the rule, amendment, or rescission shall be void and of no further force or effect.

2. Staff states that the amendment to Rule 4 CSR 240-2.090, regarding Data Requests, became effective on August 14, 2014. The first full fiscal year after the implementation thereof is fiscal year 2016, ending on June 30, 2016. The 90th day thereafter will be September 28, 2016.

3. The proposed amendment was supported by an affidavit stating that the proposed change would cost less than five hundred dollars to state agencies, political subdivisions, and private entities.

4. One commenter, a private entity and small business, advised Staff as follows:

We incurred greater costs than the estimated \$500. The additional costs were in having to submit data requests one at a time in addition to the slowdown as a result of being outside the intranet that staff and OPC use. The additional costs were, in one case alone, namely ER-2016-0023, were roughly \$5000 measured in additional attorney time to submit the requests and then also process them to our consultant who is also outside of the internal (Intranet) system. In the past, I could submit a single sheet for each data request that were going to one particular entity. This facilitated handling at hearing and could also easily be routed to particular staff persons. Moreover, I could use our own numbering system instead of being bound to whatever number EFIS chose to assign. This makes it more difficult (and time consuming) to track particular data requests

This does not consider the delays (to which staff and the commission appear insouciant) that are engendered because each data request must be accessed individually instead of as a group and, when one is outside the system and must depend on the internet to access EFIS (as distinguished from the internal INTRANET) adds several seconds to each data request. When dealing with only one or two requests, this additional time is small but it mounts up when nearly 300 data requests must be accessed in order to do the due diligence that client representation requires. It is patently obvious that none of the commissioners have had to contend with client budgets or with the requirements of law practice outside of their cloistered environment.

5. Staff is aware of no other evidence concerning the actual cost of the implementation of this amendment.

6. Staff advises the Commission that the evidence appears to show that the actual cost of implementation of the amendment has exceeded \$500 in the aggregate. If the Commission determines that, in fact, the actual cost of implementation of the amendment has exceeded \$500 in the aggregate, then § 536.200.2, RSMo., requires that the Commission publish in the Missouri Register the original estimated cost together with the actual cost during the first fiscal year within ninety days after the close of the fiscal year, that is, prior to September 28, 2016. Otherwise, § 536.200.2, RSMo., provides that the amendment shall be void and of no further force or effect.

WHEREFORE, Staff submits its *Memorandum* for the Commission's consideration.

Respectfully Submitted,

/s/ Kevin A. Thompson

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Missouri Public Service Commission

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 5th day of July, 2016, to all counsel of record in this proceeding.

/s/ Kevin A. Thompson