

MEMORANDUM

TO: Morris L. Woodruff, Secretary

DATE: February 7, 2018

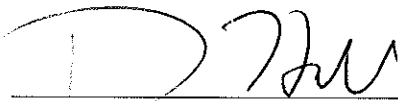
RE: Authorization to File Final Order of Rulemaking with the Office of Secretary of State

CASE NO: AX-2018-0050

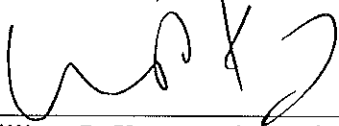
The undersigned Commissioners hereby authorize the Secretary of the Missouri Public Service Commission to file the following Final Order of Rulemakings with the Office of the Secretary of State, to wit:

Proposed Staff Assisted Rate Case Procedure Rule:
4 CSR 240-10.075

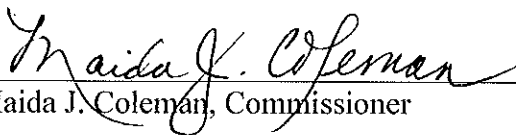
Withdrawn Rule:
4 CSR 240-3.050



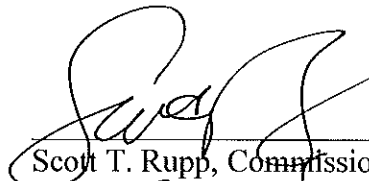
Daniel Y. Hall, Chairman



William P. Kenney, Commissioner



Maida J. Coleman, Commissioner



Scott T. Rupp, Commissioner



Ryan A. Silvey, Commissioner

John R. Ashcroft

**Secretary of State
Administrative Rules Division**

RULE TRANSMITTAL

Administrative Rules Stamp

Rule Number 4 CSR 240-10.075

Use a "SEPARATE" rule transmittal sheet for EACH individual rulemaking.

Name of person to call with questions about this rule:

Content Morris Woodruff Phone 573-751-2849 FAX 573-526-6010

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Data Entry Chris Koenigsfeld Phone 573-751-4256 FAX 573-526-6010

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Interagency mailing address Public Service Commission, 9th Fl., Gov. Ofc. Bldg., JC, MO

TYPE OF RULEMAKING ACTION TO BE TAKEN

- Emergency rulemaking, include effective date
- Proposed Rulemaking
- Withdrawal Rule Action Notice In Addition Rule Under Consideration
- Request for Non-Substantive Change
- Statement of Actual Cost
- Order of Rulemaking

Effective Date for the Order _____

Statutory 30 days OR Specific date _____

Does the Order of Rulemaking contain changes to the rule text? NO

YES—LIST THE SECTIONS WITH CHANGES, including any deleted rule text:

Changes to (1)(B), (3)(C), (4), (5)(A), (7)(A)-(E), (8)(A), (8)(B), (8)(C), (8)(D), (8)(F), addition of (8)(G), changes to (9)(A), deletion of (9)(A)3, changes to (9)(A)4, (11)(A)1, (11)(A)2, and (15)

Small Business Regulatory
Fairness Board (DED) Stamp

JCAR Stamp

JOINT COMMITTEE ON
FEB 07 2018
ADMINISTRATIVE RULES



GOVERNOR OF MISSOURI
JEFFERSON CITY
65102

ERIC R. GRETTENS
GOVERNOR

P.O. Box 720
(573) 751-3222

February 2, 2018

Daniel Hall
Public Service Commission
200 Madison Street
P.O. Box 360
Jefferson City, Missouri 65102

Dear Chairman Hall:

This office has received your final order of rulemaking for staff assisted rate case procedure, 4 CSR 240-10.075 (new) and 4 CSR 240-3.050 (rescission).

Executive Order 17-03 requires this office's approval before state agencies release proposed regulations for notice and comment, amend existing regulations, or adopt new regulations. After our review of this rulemaking, we approve the rules' submission to JCAR and the Secretary of State.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin D. Smith".

Justin D. Smith
Deputy Counsel



Commissioners
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Chairman
WILLIAM P. KENNEY
SCOTT T. RUPP
MAIDA J. COLEMAN
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Missouri Public Service Commission

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LOYD WILSON
Director of Administration
NATELLE DIETRICH
Staff Director

February 7, 2018

John R. Ashcroft
Secretary of State
Administrative Rules Division
600 West Main Street
Jefferson City, Missouri 65101

Re: 4 CSR 240-10.075 Staff Assisted Rate Case Procedure

Dear Secretary Ashcroft,

CERTIFICATION OF ADMINISTRATIVE RULE

I do hereby certify that the attached is an accurate and complete copy of the order of rulemaking lawfully submitted by the Missouri Public Service Commission.

Statutory Authority: sections 386.040, 386.250, 393.140, 393.290, and 393.291, RSMo 2016

If there are any questions regarding the content of this order of rulemaking, please contact:

Morris L. Woodruff, Chief Regulatory Law Judge
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200 Madison Street
P.O. Box 360
Jefferson City, MO 65102
(573) 751-2849
Morris.Woodruff@psc.mo.gov

Morris L. Woodruff
Chief Regulatory Law Judge

Enclosures

**Title 4 – DEPARTMENT OF ECONOMIC DEVELOPMENT
Division 240 – Public Service Commission
Chapter 10 – Utilities**

ORDER OF RULEMAKING

By the authority vested in the Public Service Commission under sections 386.040, 386.250, 393.140, 393.290, and 393.291 RSMo 2016, the commission adopts a rule as follows:

4 CSR 240-10.075 Staff Assisted Rate Case Procedure is adopted.

A notice of proposed rulemaking containing the proposed rule was published in the *Missouri Register* on November 15, 2017 (42 MoReg 1641-1643). Changes to the proposed rule are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended December 15, 2017, and the commission held a public hearing on the proposed rule on December 21, 2017. The commission received timely written comments from the Office of the Public Counsel and from the staff of the commission. Jacob Westen, representing the commission's Staff and Natelle Dietrich on behalf of Staff, as well as Ryan Smith representing the Office of the Public Counsel and Keri Roth on behalf of Public Counsel, appeared at the hearing and offered comments. Both Staff and Public Counsel offered comments about the specific provisions of the proposed rule. Those comments will be addressed in relation to those provisions.

COMMENT #1: Public Counsel suggested the definition of "small utility" found in Subsection (1)(A) be modified to limit application of this rule to smaller, less sophisticated, utilities.

RESPONSE: The proposed rule defines a small utility, to which the procedures described in the rule would apply, as a gas utility serving 10,000 or fewer customers, a water or sewer utility serving 8,000 or fewer customers, or a steam utility serving 100 or fewer customers. As a practical matter there are currently no gas utilities or steam utilities in Missouri that meet the definition of a small utility so the rule will affect only small water and sewer utilities at this time. As Public Counsel indicates, some utilities that meet the definition of "small utilities" are more financially and operationally sophisticated than others. Some are, in fact subsidiaries of multi-national corporations. However, there is no clear number of customers that would delineate an unsophisticated from a sophisticated small utility. The customer numbers used to define a small utility in this rule are derived



from the definitions of small utilities found in current Missouri statutes. No change will be made in response to this comment.

COMMENT #2 Staff proposed to change the definition of "disposition agreement" to clarify that a disposition agreement has the same force and effect as a "stipulation and agreement" as that term is generally used in practice before the commission. Public Counsel indicated it does not oppose that change.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the proposed clarification and will adopt the revised language proposed by Staff.

COMMENT #3 Public Counsel notes that the existing Small Utility Rate Case Procedure rule includes a provision that would allow the commission to summarily dismiss a small utility's request for rate relief if it fails to timely provide Staff or Public Counsel with the information needed to investigate that request. It suggests that provision should be retained in this rule.

RESPONSE: The commission does not believe a provision for summary dismissal for failure to provide information is either necessary or workable in practice. No change will be made in response to this comment.

COMMENT #4 Public Counsel is concerned that subsection (3)(B), which allows a small utility rate case to be commenced by the filing of a complaint by staff or any eligible entity pursuant to sections 386.390.1 or 393.260.1, RSMo, could be used to initiate a vexatious or frivolous rate case. Public Counsel advises the commission to require some intervening order from the commission to initiate a rate case to avoid that possibility

RESPONSE: The commission does not share Public Counsel's concern. The referenced statutes already limit the ability of non-utility entities to bring a complaint seeking a change in the utility's rates. No further limitation within this rule is necessary. No change will be made in response to this comment.

COMMENT #5 Public Counsel suggests that if a small utility files a tariff to initiate a small rate case procedures, as it is allowed to do under subsection (3)(C), it should be required to affirmatively state that it intends to proceed under the Staff assisted rate procedure rather than as a standard rate case.

RESPONSE AND EXPLANATION OF CHANGE: If such a tariff were to be filed by a utility, the commission would likely presume that the intent of the utility would be to follow a standard rate case procedure. But clarity in the rule is helpful, and the commission will modify the subsection as Public Counsel suggests.

COMMENT #6 Public Counsel comments that a provision of paragraph (3)(A)1 allows a utility to withdraw its request for a rate increase at any time before 150

days after it files its request to initiate the procedure. Public Counsel suggests the utility be allowed to withdraw its request at any time during the process, as would be allowed under the currently effective rule.

RESPONSE: The commission does not agree with Public Counsel. After the procedure has reached the 150th day, Staff will have proceeded sufficiently with its investigation and audit to have an idea of whether a rate increase, or possibly a rate decrease is necessary to ensure the existence of just and reasonable rates. At that stage of the process it may no longer be appropriate to allow the utility to unilaterally withdraw from the ratemaking process. No change will be made in response to this comment.

COMMENT #7 Public Counsel is concerned that section (4), which indicates Staff will assist a small utility in processing a small utility rate case to the extent that assistance is "consistent with staff's function and responsibilities to the commission," overstates the permissible involvement staff may have in the rate process. Specifically, Public Counsel contends Staff may not represent the utility and may not undertake the utility's statutorily established burden of proving that its proposed rates are just and reasonable.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees its staff may not represent the utility and further, that section 393.150.2, RSMo establishes that the utility bears the burden of proving that its proposed rates are just and reasonable. This rule is not intended to change either fact. But the commission wants to clearly authorize staff to assist small utilities through the process established by this rule to the extent possible.

Assisted rate cases for small utilities are necessary to ensure that rates are periodically reviewed. Some small utilities can be intimidated by the prospect of a rate case, and, if not assisted through the process, may forego a necessary rate case. Some small utilities have waited more than 20 years to request a rate case. At best, that means their ratepayers may face a very large rate increase when rates are finally adjusted. At worst, the small utility may not have sufficient revenue to meet its obligations and can enter a downward spiral of deferred or ignored maintenance, leading to poor or unsafe service, from which it may not be able to recover.

The commission will modify section (4) to make it clear that staff is neither authorized to represent the utility, nor to assume the utility's burden of proof.

COMMENT #8 Public Counsel is concerned about two aspects of subsection (5)(A). That subsection allows staff and the small utility to agree in writing to extend the procedural timeline established by this case by 30 days without the approval of the commission or any other party, which in practice means Public Counsel. Staff explained that the allowable 30-day extension would not extend the ultimate 270 day deadline for issuance of the commission's final decision regarding the rate increase request that is required by section (13) of this rule.

Public Counsel urges the commission to allow for a 60-day extension of the procedural timeline as is allowed under the Commission's current rule, arguing that more time may be needed to process a small rate case. Public Counsel would also like to be included in the decision of whether the procedural timeline should be extended.

RESPONSE AND EXPLANATION OF CHANGE: The small utility should have a say in whether the procedural timeline should be extended, as it is the utility's request for a rate adjustment that will be delayed by any extension. But under the proposed rule, the requested extension does not delay the rate adjustment, rather it places a burden on Public Counsel to present its case in a shortened period and burdens the commission by reducing its time to deliberate and issue a decision. This revised rule already reduces the procedural timeline for final resolution of the rate request from eleven months to 270 days. If the timeline is extended, the entire timeline should be extended.

Staff is appropriately involved with any decision to extend the timeline because it is primarily responsible for conducting the investigation and audit of the small utility. With the modification extending the entire procedural timeline, Public Counsel's involvement in the extension decision becomes less important. The commission will allow for a 30-day extension of each aspect of the timeline, but will leave that decision with the utility and staff. The commission will modify the rule accordingly.

COMMENT #9 Staff explained that section (6) of the revised rule will change the timing of any local public hearing the Commission may have at a location near the service territory of the small utility. Under the current regulation, such a local public hearing, if held at all, would be scheduled later in the procedural schedule, after Staff has completed its investigation and audit, and after a disposition agreement has been reached. The new rule would call for the local public hearing to be scheduled much earlier in the process; within 60 days after the opening of the case. It would also require that such local public hearing be held unless all parties agree it is not necessary.

Public Counsel is concerned that having a local public hearing so early in the process will not be helpful because little information about the investigation and audit will be available to be shared with the ratepayers at that time. It suggests that if a local public hearing is held, it would be more productive later in the process. Public Counsel and Staff agree it would not be advisable to have both an early and late local public hearing in the same case.

RESPONSE: Moving the local public hearing to an earlier time in the process will allow the commission, its staff, Public Counsel, and the utility to hear the concerns of the utility's customers about rates and the service they receive early enough in the process to make a difference in Staff's investigation and audit, and to influence any resulting disposition agreement. The Commission will not make any change in response to this comment.

COMMENT #10 Section (7) of the proposed rule establishes the notice to be given to a small utility's ratepayers; describing the filing of the request for the rate increase and indicating how ratepayers may participate in that process. Staff explained that the proposed rule ties that notice with the notice of the setting of the local public hearing early in the process. Even if no local public hearing is scheduled, the single notice would still be given early in the process. Public Counsel urges the commission to continue the practice under the current rule of issuing both an early notice at the start of the process, and a later notice issued after completion of the audit and investigation and filing of a disposition agreement.

RESPONSE: The commission believes that a single notice as contemplated in the proposed rule is appropriate, particularly as applied to the revised timing of a local public hearing to occur earlier in the process. The issuance of notices at multiple times in the process could unnecessarily confuse ratepayers. Ratepayers who are given notice early in the process can follow the process to its completion if they choose to do so. The commission will not make any change in response to this comment.

COMMENT #11 Public Counsel comments that subparagraph (7)C) notifies customers that they have thirty days to submit comments about the proposed rate increase. Public Counsel contends there is no reason to put a time limit on such comments.

RESPONSE The commission is willing to accept comments from the public at any time, but the time limit stated in the notice is appropriate so that such comments can be available to Staff as it prepares its investigation and audit and to Public Counsel as it makes its preparations. The commission will not make any change in response to this comment.

COMMENT #12 Public Counsel points to a problem with how section (7) of the proposed rule is structured. As proposed, subsections (7)(A)-(D) are intended to delineate the content of the notice to be given to ratepayers. Subsection(E) directs Staff to file a copy of that notice in the file. But the way the rule is structured, subsection (E) incorrectly appears to be another item to be included in the notice given to ratepayers.

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees with the comment. Section (7) will be restructured to create a subsection (A) that includes the items to be included in the notice as paragraphs. The existing subsection (E) is retained as a separate subsection.

COMMENT #13 Public Counsel is concerned that section (8), which describes the investigation and audit that shall be conducted by Staff, and may be conducted by Public Counsel, could be interpreted in a way that would require

Public Counsel to either undertake a detailed investigation or be barred from any participation in the case.

RESPONSE: The commission reassures Public Counsel that its intent in modifying this rule is not to limit Public Counsel's ability to fully participate in these rate cases involving small utilities. The specific provisions of the proposed rule that concern Public Counsel will be addressed in subsequent comments.

COMMENT #14 Public Counsel notes that subsection (8)(A) indicates Staff's audit and investigation will follow staff internal procedures to ensure reasonable consistency. Public Counsel does not object to that provision, but asks that such internal procedures be made available to the public. Staff indicated such procedures are just general guidelines on how staff will conduct its investigations, not specific one-size-fits-all requirements. Staff internal policies would be made available to any member of the public that wishes to see them.

RESPONSE AND EXPLANATION OF CHANGE: The subsection's reference to staff's internal procedures is unnecessary and could be interpreted as incorporating an unpublished document into the rule. The commission will remove the reference to separate internal procedures from the subsection.

COMMENT #15 Subsection (8)(C) currently requires that data requests submitted to the utility are to be shared with all parties. Public Counsel suggests data request responses from the utility should also be shared

RESPONSE AND EXPLANATION OF CHANGE: The commission agrees and the subsection will be modified to add that requirement

COMMENT #16 Public Counsel questions a provision in subsection (8)(E) that allows for the use of estimated values of normal expense items and rate base items in determining the small utility's cost of service. Public Counsel is concerned that such language in the rule would create confusion about whether the utility has met its statutory burden to prove that the rates it is requesting are just and reasonable and supported by competent and substantial evidence.

RESPONSE The commission agrees that this rule cannot change the statutory burden of proof placed on the utility. Nothing in the rule is intended to do so. After hearing the evidence, the commission will decide whether any estimated value is sufficiently reliable to be competent and substantial evidence. No change will be made in response to this comment.

COMMENT #17 Public Counsel is concerned about subsection (8)(D), which requires an update of the utilities rate base be included in an "investigation," and (8)(F), which requires Staff to provide all parties with a report describing the results of its investigation and audit no later than 90 days after the rate case is opened. In addition to directing Staff to file its report, subsection (8)(F) directs

Public Counsel to provide such a report if it is "conducting its own investigation." Public Counsel does not believe the commission has authority to require it to conduct any particular investigation, and is concerned that if it chooses not to conduct a full investigation it might be precluded from otherwise participating in the case.

RESPONSE AND EXPLANATION OF CHANGE The commission does not intend to force Public Counsel to conduct any particular investigation and the intent of section (8) is to guide Staff's investigation. To assuage Public Counsel's fears, the Commission will change each reference to "the" investigation in this section to "staff's" investigation. In addition, the commission will add a new subsection (8)(G) to require Public Counsel to report the results of whatever investigation it chooses to conduct.

COMMENT #18 Section 9 directs staff to submit a confidential settlement proposal no later than 120 days after the small utility rate case is opened. It also requires Public Counsel to submit its own confidential settlement proposal if it chooses to conduct its own investigation. Public Counsel objects to the provisions of the section that would require Public Counsel to submit a settlement proposal or that would specify the contents of any settlement proposal Public Counsel might choose to submit.

RESPONSE AND EXPLANATION OF CHANGE The commission intended this rule to give Public Counsel an opportunity to submit a settlement proposal in any case if it wishes to do so. It also wants to give staff and the utility a fair opportunity to respond to whatever settlement proposal Public Counsel offers. However, the commission recognizes that Public Counsel may choose for itself the extent to which it chooses to participate in any case before the commission. For that reason, the commission will delete paragraphs (9)(A)3 and modify paragraph (9)(A)4, which purport to require Public Counsel to include certain items in any settlement proposal it may choose to submit. In addition, the commission will modify subsection (9)(A) to clarify that Public Counsel may submit a settlement proposal, but is under no obligation to do so.

COMMENT #19 Public Counsel expressed concern about a provision of subsection (9)(C) that would require any party responding to a settlement proposal to provide audit workpapers, rate design workpapers or other documents in its possession that support its suggestions. Public Counsel fears that many small utilities will not have such workpapers and documents to be able to include them with their response.

RESPONSE The proposed subsection merely requires the responding parties to provide any such documents they possess. It does not require them to create or produce any documents they do not already have in their possession. No change to the subsection will be made in response to the comment.

COMMENT #20 Public Counsel expressed concern about the appropriateness of the wording of paragraphs (11)(A)1 and 2. Staff suggested modifications to improve that wording.

RESPONSE AND EXPLANATION OF CHANGE The commission will adopt the modified language proposed by staff.

COMMENT #21 Public Counsel suggests subsection (11)(C) be modified to require additional notice be sent to ratepayers to inform them that a rate tariff has been filed.

RESPONSE The commission does not believe additional notice is needed at that point in the process. No change will be made in response to this comment.

COMMENT #22 Paragraph (11)(E)1 allows the small utility to request to be excused from participation in an evidentiary hearing where at least the staff and the utility have entered into a disposition agreement to fully resolve the rate case. Public Counsel objects that allowing the utility to avoid participation in the hearing would leave the utility unable to meet its statutory burden of proof and would improperly shift that burden of proof to staff.

RESPONSE The commission does not share Public Counsel's concerns. As the commission clarified in response to comment #2, "disposition agreement" is defined to be the equivalent of a "stipulation and agreement" in practice before the commission. If staff and the small utility have entered into a disposition agreement to which another party has objected, then the disposition agreement becomes merely a joint position of the signatory parties, to which neither party is bound. But, if staff and the small utility choose to present the disposition agreement as their joint position, then staff can choose to present that position on its own behalf and the small utility does not need to duplicate staff's efforts at the hearing. Each aspect of the disposition agreement would need to be supported by competent and substantial evidence, but that supporting evidence could be provided by staff. No changes will be made in response to this comment.

COMMENT #23 Public Counsel is concerned that section (13) allows the commission only 20 days to deliberate and decide a rate case after it has been finally submitted by the submission of final briefs.

RESPONSE AND EXPLANATION OF CHANGE The commission shares that concern, but believes it is important to have a goal of completing these cases in a timely fashion so that just and reasonable rates can be established. However, the commission recognizes that circumstances may arise that will require additional time to deliberate and decide a case. For that reason, section (15) will be modified to explicitly provide that the 270 day deadline for a final decision established in section (13) may be waived for good cause shown.

**Rules of
Department of Economic Development
Division 240 - Public Service Commission
Chapter 10 - Utilities**

4 CSR 240-10.075 Staff Assisted Rate Case Procedure

(1) Definitions. As used in this rule, the following terms mean:

(B) A disposition agreement is a document that sets forth the signatories' proposed resolution of some or all of the issues pertaining to a small utility rate case, and has the same weight as a stipulation and agreement as defined in 4 CSR 240-2.115.

(3) Commencement. A small utility rate case may be commenced by-

(C) A proposed tariff stating a new rate or charge filed by a small utility pursuant to section 393.150.1, RSMo, if accompanied by a written statement requesting the use of the procedures established by this rule.

(4) Staff will assist a small utility in processing a small utility rate case insofar as the assistance is consistent with staff's function and responsibilities to the commission. Staff may not represent the small utility and may not assume the small utility's statutory burden of proof to show that any increased rate is just and reasonable.

(5) Rate Case Timeline. Within one (1) week after a small utility rate case is opened, staff will file a timeline under which the case will proceed, specifying due dates for the activities required by this rule.

(A) Staff and the utility may agree in writing that the deadlines set out in the rate case timeline, including the date for issuance of the Commission's report and order, be extended for up to thirty (30) days. If an extension is agreed upon, staff shall file the agreement and an updated timeline reflecting the extension in the case file.

(7) Notice.

(A) At least ten (10) days prior to a local public hearing, or upon the filing of a notice that a local public hearing is not necessary, the utility

shall mail a written notice, as approved by staff and the office of the public counsel (OPC), to its customers stating–

1 The time, date, and location of the local public hearing, consistent with the order setting the hearing, if applicable;

2 A summary of the proposed rates and charges, the effect of the proposed rate increase on an average residential customer's bill, and any other company requests that may affect customers, if known;

3 An invitation to submit comments about the utility's rates and quality of service within thirty (30) days after the date shown on the notice and instructions as to how comments can be submitted electronically, by telephone, and in writing; and

4 Instructions for viewing the publicly available filings made in the case via the commission's electronic filing system.

(B) Staff will file a copy of the notice in the case file.

(8) Investigation and audit. After a small utility rate case is opened, the staff shall, and the public counsel may, conduct an investigation of the utility's request.

(A) Staff's investigation may include a review of any and all information and materials related to the utility's cost of providing service and its operating revenues, the design of the utility's rates, the utility's service charges or fees, all provisions of the utility's tariffs, and any operational or customer service issues that are discovered during the investigation. The Staff's audit and investigation will ensure reasonable consistency in the recommended rate treatment of the utility's rate base, revenue and expenses with that of other similarly situated utilities.

(B) Staff's investigation may include a review of the records generated since the utility's previous rate case, the case in which the utility was granted its Certificate of Convenience and Necessity, or the utility's transfer of assets case, whichever is most recent.

(C) If an investigation of the utility's request includes the submission of data requests to the utility, copies of the data requests shall be provided to all parties to the case when they are submitted to the utility. The utility's responses to such data requests shall also be shared.

(D) Staff's investigation shall include an update of the utility's rate base.

(F) Not later than ninety (90) days after a small utility rate case is opened, the staff shall, provide to all parties, a report of its preliminary investigation, audit, analysis, and workpapers including:

- 1. An evaluation of the utility's record-keeping practices; and**
- 2. A list of the cost of service items that are still under consideration with an explanation for why those items are not yet resolved.**

(G) If the public counsel is conducting its own investigation, it shall, not later than ninety (90) days after a small utility rate case is opened, provide to all parties a report regarding whatever investigation it has conducted.

(9) Settlement proposals.

(A) Staff's confidential settlement proposal. Not later than one hundred twenty (120) days after a small utility rate case is opened, staff shall, and the public counsel if proposing its own settlement, may provide to all parties to the case, a confidential settlement proposal.

1. Staff's settlement proposal will address the following subjects:

- A. The utility's annual operating revenues;**
- B. The utility's customer rates;**
- C. The utility's service charges and fees;**
- D. The utility's plant depreciation rates;**
- E. The utility's tariff provisions;**
- F. The operation of the utility's systems; and**
- G. The management of the utility's operations.**

2. Staff's settlement proposal will include the following documents:

- A. Draft revised tariff sheets reflecting the settlement proposal;**
- B. A draft disposition agreement reflecting the settlement proposal;**
- C. Staff's updated workpapers; and**
- D. Any other documents supporting the staff's settlement proposal.**

3. If OPC makes a settlement proposal, it shall include the following documents:

- A. OPC's updated workpapers; and**
- B. Any other documents supporting OPC's settlement proposal.**

(11) Disposition agreement.

(A) Not later than one hundred fifty (150) days after a small utility rate case is opened, staff shall file one of the following:

1. A disposition agreement involving, at a minimum staff and the utility, and providing for a full resolution of the small utility rate case;

**2. A disposition agreement involving, at a minimum staff and the utility, and providing for a partial resolution of the small utility rate case and a motion requesting that the case proceed to an evidentiary hearing;
or**

3. A motion stating that agreements cannot be reached on any of the issues related to the small utility rate case and asking that the case proceed to an evidentiary hearing.

(15) Waiver of Provisions of this Rule. Any provision of this rule, including the requirement that the commission's report and order to resolve the case be effective no later than two hundred seventy (270) days after the small utility rate case is opened, may be waived by the commission upon a finding of good cause.