

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

In the Matter of Proposed Rules 4 CSR 240-3.162)
and 4 CSR 240-20.091 Establishing Environmental) File No. EX-2009-0252
Cost Recovery Mechanisms)

STAFF 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 estimate due to the rule adopted in this rulemaking case, and has determined that no fiscal estimate change need be filed with the Secretary of State.

2. The rules adopted in this case established rules for environmental cost recovery for electrical corporations pursuant to Section 386.266 RSMo. Cum. Supp. 2010. The Commission's Order of Rulemaking appeared in the July 1, 2009 *Missouri Register*, Volume 34, Number 13, establishing rules 4 CSR 240-20.091 and 4 CSR 240-3.162 effective on August 30, 2009.

3. 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 rule became effective was the fiscal year beginning July 1, 2010 and ending June 30, 2011.

Wherefore, the Staff files the attached Memorandum wherein the Staff states its conclusion that no fiscal estimate change needs to be filed with the Secretary of State for Rules 4 CSR 240-20.091 and 4 CSR 240-3.162.

Respectfully submitted,

/s/ Steven Dottheim

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing filing of Staff Fiscal Note Review Memorandum was served via e-mail on this 5th day of July, 2011 on counsel for all entities that submitted comments in this docket.

/s/ Steven Dottheim

MEMORANDUM

TO: Case File for Case No. EX-2009-0252

FROM: Lena Mantle, on Behalf of the Commission Staff

SUBJECT: Rules 4 CSR 240-20.091, 4 CSR 240-3.162, Accuracy of Cost Estimates for Rule Implementation – Compliance with the Requirements of GP-1 of the Commission's General Procedures

DATE: July 5, 2011

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 estimate published in the *Missouri Register* was inaccurate in connection with the implementation of the changes to the Environmental Cost Recovery Rules 4 CSR 240-20.091, 4 CSR 240-3.162, in Case No. EX-2009-0252.

Additionally, the Staff reports that it has not received any information from any party potentially or actually affected by the implementation of the subject rule that would show that the cost estimate published in the *Missouri Register* was inaccurate.

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 its 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.

The Staff's response regarding the accuracy of the published cost estimates is within the time frame specified by Section 536.200.2, RSMo 2000. This statute requires publication in the *Missouri Register* of a report of any excess cost over estimated cost, or cost 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. The change in the rule that was the subject of this case was effective on August 30, 2009. The first full fiscal year after implementation of the rules thus ended on June 30, 2011. Accordingly, September 28, 2011 would represent the 90-day expiration period for the publication of a report regarding excess cost information in the *Missouri Register*. Since the Staff's investigation indicates that the published cost estimates related to the changes in the rule have not been exceeded, no *Missouri Register* publication is required under Section 536.200.2, RSMo 2000.

APPENDIX A