

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

In the Matter of Proposed Amendment to)
Commission Rule 4 CSR 240-3.135,) Case No. EX-2003-0372
Filing and Reporting Requirements.)

FISCAL NOTE REVIEW MEMORANDUM

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission") and respectfully 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 rule amendment adopted in this case and has determined that no fiscal estimate changes need to be filed with the Secretary of State.

2. The Commission's Order of Rulemaking adopting the amendment to Commission Rule 4 CSR 240-3.135, "Filing Requirements and Schedule of Fees Applicable to Applications for Post-Annexation Assignment of Exclusive Service Territories and Determination of Compensation," was published in the September 15, 2005 *Missouri Register*. This amendment became effective on October 30, 2005, thirty days after its publication in the *Code of State Regulations*.

3. Section 536.200.2 RSMo (2000) requires agencies to make a filing with the Secretary of State if, after the first full fiscal year after implementation, the cost of the rule, amendment, or rescission exceeds the agency fiscal note estimate.¹ The first full fiscal year after

¹ Specifically, Section 536.200.2, RSMo 2000 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

the subject amendment became effective was the fiscal year beginning July 1, 2006 and ending June 30, 2007.

WHEREFORE, the 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.

Respectfully submitted,

/s/ **Dennis L. Frey**

Dennis L. Frey
Senior Counsel
Missouri Bar No. 44697

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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 31st day of August 2007.

/s/ **Dennis L. Frey**

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.”

MEMORANDUM

TO: Case File for Case No. EX-2003-0372

FROM: Lena Mantle, on Behalf of the Commission Staff

SUBJECT: Accuracy of Cost Estimate for Implementation of Amended Rule 4 CSR 240-3.135
– Compliance with the Requirements of GP-1 of the Commission's General Procedures

DATE: August 30, 2007

The Commission Staff has investigated the cost of implementing the rule amendment 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 April 1, 2005 issue of the *Missouri Register* was inaccurate in connection with the implementation of the changes to the Utility Reporting Requirements Rule 4 CSR 240-3.135, in Case No. EX-2007-0372.

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 amendment 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, the Staff is to investigate whether or not 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 the estimated cost in the fiscal note by at least ten percent for all entities or, where appropriate, five hundred dollars, Staff's Memorandum shall be entered into EFIS under the rulemaking's docket number.

While the internal time limits prescribed by GP-1 have not specifically been met, the Staff's response regarding the accuracy of the published cost estimate is well within the time frame specified by Section 536.200.2, RSMo 2000. This statute requires publication in the *Missouri Register* of a report of 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 October 30, 2005. The first full fiscal year after implementation of the rules thus ended on June 30, 2007. Accordingly, September 28, 2007 would mark the expiration of the 90-day 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.

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Case No. EX-2003-0372

AFFIDAVIT OF LENA M. MANTLE

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Lena M. Mantle, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that she prepared the accompanying Memorandum, and that the facts therein are true and correct to the best of her knowledge and belief.



Lena M. Mantle

Subscribed and sworn to before me this 30th day of August, 2007.



SUSAN L. SUNDERMEYER
My Commission Expires
September 21, 2010
Callaway County
Commission #06942086



Notary Public

My commission expires 9-21-10