

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

In the Matter of a Proposed Rule)	
Regarding Electric Utility Fuel and Purchased)	Case No. EX-2006-0472
Power Cost Recovery Mechanisms)	

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 reviewed the fiscal estimates respecting the rules adopted in this case and has determined that no fiscal estimate changes need to be filed with the Secretary of State. Those fiscal estimates were published with the Commission's Proposed Rules in the July 17, 2006 *Missouri Register*.

2. The Commission's Final Orders Of Rulemaking adopting 4 CSR 240-3.161 Electric Utility Fuel and Purchased Power Cost Recovery Mechanism Filing and Submission Requirements and 4 CSR 240-20.090 Electric Utility Fuel and Purchased Power Cost Recovery Mechanisms were published in the December 1, 2006 *Missouri Register*. These rules became effective on January 30, 2007, 30 days after publication in the *Code of State Regulations* on December 31, 2006.

3. Section 536.200.2 RSMo. 2000 requires state agencies to make a filing with the Missouri Secretary of State if after the first full year after implementation, the cost of the rule 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 first full fiscal year after the rules became effective was the fiscal year beginning July 1, 2007 and ending June 30, 2008.

4. Among other filings in Case No. EX-2006-0472, are the June 15, 2006 transmittals to the Missouri Secretary of State. These materials, filed in Case No. EX-2006-0472 on June 16, 2006, include affidavits from Gregory A Steinhoff, Director, Department of Economic Development. The affidavits separately state, in part, as follows:

I, Gregory A. Steinhoff, Director of the Department of Economic Development, first being duly sworn on my oath state that it is my opinion that it is my opinion [sic] that the cost of the Proposed Rule 4 CSR 240-3.161 is less than five hundred dollars in the aggregate to this agency, and any other agency of state government or any political subdivision thereof.

* * * *

I, Gregory A. Steinhoff, Director of the Department of Economic Development, first being duly sworn on my oath state that it is my opinion that it is my opinion [sic] that the cost of the Proposed Rule 4 CSR 240-20.090 is less than five hundred dollars in the aggregate to this agency, and any other agency of state government or any political subdivision thereof.

5. As to private entity cost, the fiscal notes published in the July 17, 2006 *Missouri Register* separately state, in part, as follows for 4 CSR 240-3.161 and 4 CSR 240-20.090, respectively:

4 CSR 240-3.161:

The companies who responded estimated that the cost of compliance with chapter 20 fuel adjustment clause provisions, if all four utilities chose to seek this regulatory treatment of fuel and purchased power cost, would be approximately \$111,000/year. However, as AmerenUE noted (and two of the remaining three companies concurred), "AmerenUE believes that these costs will be more than offset by the benefits provided by the FAC rules, including the fact that workable FAC rules will make rate cases less frequent than they would otherwise be." Finally §536.205 requires that a fiscal note be attached when "the adoption, amendment or rescission of the rule would require an expenditure of money." Nothing in this proposed rule requires the companies to incur any expense or forgo any income, as participation in the program established by this rule is entirely voluntary for the companies.

As to consumers, including large industrial users and individual residences, these rules may increase or decrease electric rates. These rules may permit both indirect costs and benefits to be passed along more quickly than they would otherwise be. Such costs and benefits are speculative and unquantifiable. Moreover, any increased fuel and purchased power costs that are prudently

incurred by an electric utility would be recovered in rates at some point in the future, and there is opportunity for reflecting a decrease in fuel and purchase power costs earlier than would otherwise be the case.

* * * *

4 CSR 240-20.090:

The companies who responded estimated that the cost of compliance with chapter 20 fuel adjustment clause provisions, if all four utilities chose to seek this regulatory treatment of fuel and purchased power cost, would be approximately \$453,000/year. However, as AmerenUE noted (and two of the remaining three companies concurred), "AmerenUE believes that these costs will be more than offset by the benefits provided by the FAC rules, including the fact that workable FAC rules will make rate cases less frequent than they would otherwise be." Finally §536.205 requires that a fiscal note be attached when "the adoption, amendment or rescission of the rule would require an expenditure of money." Nothing in this proposed rule requires the companies to incur any expense or forgo any income, as participation in the program established by this rule is entirely voluntary for the companies.

As to consumers, including large industrial users and individual residences, these rules may increase or decrease electric rates. These rules may permit both indirect costs and benefits to be passed along more quickly than they would otherwise be. Such costs and benefits are speculative and unquantifiable. Moreover, any increased fuel and purchased power costs that are prudently incurred by an electric utility would be recovered in rates at some point in the future, and there is opportunity for reflecting a decrease in fuel and purchase power costs earlier than would otherwise be the case.

6. Since 4 CSR 240-3.161 and 4 CSR240-20.090 have gone into effect, three electric utility companies have sought authorization to utilize a fuel adjustment clause/rate adjustment mechanism. The Commission authorized Aquila, Inc. in a May 17, 2007 Report And Order in Case No. ER-2007-0004 to utilize a fuel adjustment clause; the Commission authorized The Empire District Electric Company in a July 30, 2008 Report And Order in Case No. ER-2008-0093 to utilize a fuel adjustment clause; and the Commission in a May 22, 2007 Report And Order in Case No. ER-2007-0002 denied Union Electric Company, d/b/a AmerenUE authority to utilize a fuel adjustment clause.

7. As noted in Paragraph 1 above, the Staff conducted a review of the fiscal estimates affecting entities from the rules adopted in this case for the first full fiscal year after the rules became effective, July 1, 2007 to June 30, 2008, and has determined, as indicated in Appendix A, that no fiscal estimate changes need to be filed with the Secretary of State.

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/ Steven Dottheim

Steven Dottheim
Chief Deputy General Counsel
Missouri Bar No. 29149

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Dated: August 21, 2008

Memorandum

To: Official Case File
Case No. EX-2006-0472

From: Natelle Dietrich
Director-Utility Operations

Subject: Fiscal Analysis Review for 4 CSR 240-3.161 and 4 CSR 240-20.090

Date: July 30, 2008

Commission rules 4 CSR 240-3.161 and 4 CSR 240-20.090 pertain to electric utility fuel and purchased power cost recovery mechanisms and the associated filing and submission requirements. The rules became effective January 30, 2007. The anticipated public fiscal impact of the rules was projected to be less than \$500. The anticipated private fiscal impact of the rules, if the voluntary nature of the rules was executed, was projected to have a cost that would be off-set by the benefits of the rule.

Section 536.200.2 RSMo requires agencies to make a filing with the Missouri Secretary of State if, after the first full year after implementation, the cost of the rule has exceeded by ten percent or more the estimated cost in the fiscal note or has exceeded five hundred dollars if the proposed cost was estimated to be less than five hundred dollars. The Missouri Commission's General Procedure 1 requires a Staff investigation of the fiscal impact to begin thirty days prior to end of the first full fiscal year. Accordingly, Staff is to prepare a memorandum within thirty days after the end of the first full fiscal year if costs are less than 10% or \$500, where appropriate. If costs are more than 10% or \$500, the General Counsel prepares a filing for action by the Administrative Law Judge.

The Commission Staff has not discovered any information that would show the cost estimates associated with the rule and as published in the Missouri Register were not accurate. Since the Commission Staff's investigation indicates the published cost estimates related to the implementation of this rule have not been exceeded, no Missouri Register publication is required under Section 536.200.2 RSMo.

Appendix A

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

IN THE MATTER OF A PROPOSED RULE)
REGARDING ELECTRIC UTILITY FUEL AND)
PURCHASED POWER COST RECOVERY)
MECHANISMS.)

Case No. EX-2006-0472

AFFIDAVIT OF Natelle Dietrich

STATE OF MISSOURI)
) ss:
COUNTY OF COLE)

Natelle Dietrich, employee of the Missouri Public Service Commission, being of lawful age and after being duly sworn, states that she has participated in preparing the accompanying fiscal note review Memorandum, and that the facts therein are true and correct to the best of her knowledge and belief.



NATELLE DIETRICH
DIRECTOR-UTILITY OPERATIONS

Subscribed and affirmed before me this 30TH day of July 2008.



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



NOTARY PUBLIC