

## REVISED FISCAL NOTE

### PRIVATE COST

#### I. RULE NUMBER

Rule Number and Name	Type of Rulemaking
4 CSR 240-4.020 Rule Governing Ex Parte and Extra Record Communications	Proposed Rule

#### II. SUMMARY OF FISCAL IMPACT

Estimated number of entities that will likely be affected by adoption of the rule.	Types of entities that will likely be affected by adoption of the rule.	Estimated aggregate cost of compliance with the rule by the affected entities.
1000	Entities regulated by the Public Service Commission and Parties to Contested Cases including: twelve (12) large gas, electric, and steam utilities; one (1) large water and sewer utility; seventy-four (74) small water and sewer companies; and other regulated entities.	\$5,616.66 per year for the life of the rule.

#### III. WORKSHEET

Average cost for a large utility to file a section (2) notice:  $(\$1,000 + \$3750 + \$10,000)/3 = \$4,916.66$  per year<sup>(3)</sup>

Average cost for a small company to file a section (2) notice:  $\$50 \times 14 = \$700$  per year<sup>(7),(6)</sup>

Total cost per year to private entities:  $\$4,916.66 + \$700 = \$5,616.66$  per year

#### IV. ASSUMPTIONS

If adopted, this proposed rule will govern ex parte and extra record communications between the Commissioners and parties to cases before the Commission. The rule

defines ex parte and extra record communications, places prohibitions on the timing and content of certain communications, establishes exceptions to prohibited communications, and provides reporting requirements for certain communications. Section (2) of the rule would require a filing by a regulated entity 60 days prior to that entity filing a contested case unless a waiver is granted.

- (1) In calculating this fiscal note the Commission assumed that an overwhelming majority of the filings made under section (2) would be made by the large utilities.
- (2) Because of the utility size and complexity of the contested cases filed, the cost for the large utilities will be significantly higher for filing the notice than it would be for small utilities.
- (3) The Commission received the following information from four entities regarding the fiscal cost:
  - a. One large gas utility stated that the cost of complying with the rule would be in excess of \$1000 per year with a majority of the cost arising from section (2).
  - b. Two large electric utilities estimated that the average cost of filing a notice to comply with section (2) would exceed \$300 and that together they would expect to file approximately 25 of these notices. ( $\$300 \times 25 = \$7500/2 = \$3750$ )
  - c. One law firm who represents large utilities estimated that the cost to comply with section (2) would exceed \$500 for the firm to prepare and file. The firm estimates that a large utility would likely file 20 such notices per year. ( $\$500 \times 20 = \$10,000$ )
- (4) Large utilities will file notices at an average cost and number similar to those suggested in the estimates received from those entities.
- (5) Information in the Commission's 2009 Annual Report regarding the number of regulated entities and cases filed will be approximately the same for each fiscal year thereafter.
- (6) Small water and sewer utilities will file only one notice per year required under by section (2) and only approximately 14 of 74 companies per year will be required to file such notices.
- (7) It will cost a small water and sewer utility approximately \$50 to file the notice required in section (2).
- (8) The rule does not require other notices to be filed by private entities if no ex parte or extra record contacts are made. Thus, while the rule affects all regulated utilities, only the large utilities and small water and sewer utilities are likely to have a fiscal impact.
- (9) The cost of filing ex parte or extra record notices is not significant.