

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

FILED

OCT - 6 1998

Missouri Public
Service Commission

In the matter of the assessment against the)
public utilities in the State of Missouri for the)
expenses of the Commission for the fiscal)
year commencing July 1, 1998.)

Case No. OO-99-44

STAFF'S PROPOSED CONCLUSIONS OF LAW

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and for its proposed conclusions of law states:

1. The Public Service Commission (Commission or PSC) has the statutory authority and duty to assess public utilities for the payment of its expenditures attributable to the regulation of public utilities. Section 386.370, RSMo Supp. 1997.
2. A public utility shall pay its PSC assessment to the Director of Revenue who shall remit such payment to the State Treasurer. Section 386.370, RSMo Supp. 1997.
3. The State Treasurer shall credit a public utility's PSC assessment payment to the PSC Fund which is an account in the General Revenue Fund within the state treasury. Section 386.370, RSMo Supp. 1997, and Section 33.575, RSMo 1994.
4. The PSC Fund shall be devoted solely to the payment of expenditures actually incurred by the Commission and attributable to the regulation of public utilities subject to its jurisdiction. Section 386.370.4, RSMo Supp. 1997.

5. House Bill No. 1004 (1996), House Bill No. 4 (1997), and House Bill No. 1004 (1998) authorize and direct the transfer of moneys from the PSC Fund to the General Revenue Fund for the payment of Hancock Amendment refunds.¹

6. To the extent of the transfers directed by House Bills No. 1004 (1996), No. 4 (1997) and No. 1004 (1998), these bills implicitly repeal the proscription of Section 386.370.4, RSMo Supp. 1997, that the PSC Fund shall be devoted solely to payment of the Commission's expenditures for the regulation of public utilities. County of Jefferson v. Quiktrip Corporation, 912 S.W.2d 487, 490 (Mo. banc 1995).

7. The Legislature's repeal by implication of Subsection 4 of Section 386.370, RSMo Supp. 1997, to the extent of the Hancock Amendment transfers directed by House Bills No. 1004 (1996), No. 4 (1997) and No. 1004 (1998), did not repeal the Commission's authority under Subsection 2 of that statute to assess public utilities for its estimated expenses directly attributable to the regulation of public utilities.

8. The determination of a reasonable method to estimate, pursuant to Section 386.370 RSMo Supp. 1997, the amount of the Commission's estimated expenses attributable to each group of public utilities is within the Commission's jurisdiction.

9. The Public Service Commission is not a court and has no power to declare or enforce any principle of law or equity. Board of Public Works of Rolla v. Sho-Me Power Corp., 244 S.W.2d 55, 59 (Mo. banc 1951).

¹Sections 16 through 24 of Article X of the Missouri Constitution are popularly known as the Hancock Amendment.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 6th day of October, 1998.

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