

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

In the Matter of the Consideration And)	
Implementation Of Section 393.1075, The)	<u>File No. EX-2010-0368</u>
Missouri Energy Efficiency Investment Act)	

STAFF FISCAL NOTE REVIEW MEMORANDUM

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), by and through the undersigned counsel, and respectfully states to the Missouri Public Service Commission ("Commission") the following:

1. The Commission's Orders of Rulemaking appeared in the April 15, 2011 *Missouri Register*, Volume 36, Number 8, establishing rules 4 CSR 240-3.163 Electric Utility Demand-Side Programs Investment Mechanisms Filing and Submission Requirements, 4 CSR 240-3.164 Electric Utility Demand-Side Programs Filing and Submission Requirements, 4 CSR 240-20.093 Demand-Side Programs Investment Mechanisms, and 4 CSR 240-20.094 Demand-Side Programs, effective May 30, 2011.

2. The rules adopted in this case established filing requirements and a regulatory framework for electric corporations proposing implementation of demand-side management programs and recovery of demand-side management costs, incentives, and lost revenue under The Missouri Energy Efficiency Investment Act, Section 393.1075¹.

3. Section 536.200.2, RSMo 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 within the fiscal note. The fiscal notes for the

¹ Mo. Ann. Stat. § 393.1075 (2010).

above-mentioned rules appeared in the November 15, 2010 *Missouri Register*, Volume 35, Number 22, pages 1610 through 1685.

4. The first full fiscal year after the rules became effective was the fiscal year beginning July 1, 2011 and ending June 30, 2012. In the *Memorandum* attached as Appendix A, Staff advises the Commission that the Staff conducted a review of the fiscal estimates due to the rules adopted in this rulemaking case, and concludes that the General Counsel does not need to file any estimate changes with the Secretary of State.

WHEREFORE, the Staff files the attached *Memorandum* for the Commission's information and consideration, and states its conclusion that no fiscal estimate changes need filing with the Secretary of State for Rules 4 CSR 240-3.163, 4 CSR 240-3.164, 4 CSR 240-20.093, and 4 CSR 240-20.094.

Respectfully submitted,

/s/Jennifer Hernandez

Jennifer Hernandez
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via e-mail upon all parties and subscribers of record in the Commission's Electronic Filing and Information System this 20th day of July 2012.

/s/Jennifer Hernandez

MEMORANDUM

TO: Case File for Case No. EX-2010-0368

FROM: Martha Wankum, on Behalf of the Commission Staff

SUBJECT: Rules 4 CSR 240-3.163, 4 CSR 240-3.164, 4 CSR 240-20.093, and 4 CSR 240-20.094 – Accuracy of Cost Estimates for Rule Implementation – Compliance with the Requirements of GP-1 of the Commission's General Procedures

DATE: July 20, 2012

The Commission Staff has investigated the cost to public entities for implementing the rules 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 4 CSR 240-3.163 Electric Utility Demand-Side Programs Investment Mechanisms Filing and Submission Requirements¹, 4 CSR 240-3.164 Electric Utility Demand-Side Programs Filing and Submission Requirements², 4 CSR 240-20.093 Demand-Side Programs Investment Mechanisms³, and 4 CSR 240-20.094 Demand-Side Programs⁴, in Case No. EX-2010-0368.

Additionally, the Staff reports that it has not received any information from any party potentially or actually affected by the implementation of the subject rules 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

¹ 35 Mo. Reg. 1610. The estimated cost of the proposed rule for state agencies or political subdivisions was not more than five hundred dollars in the aggregate.

² 35 Mo. Reg. 1629. The estimated cost of the proposed rule for state agencies or political subdivisions was not more than five hundred dollars in the aggregate.

³ 35 Mo. Reg. 1647. The estimated cost of the proposed rule for state agencies or political subdivisions was not more than five hundred dollars in the aggregate.

⁴ 35 Mo. Reg. 1667. The estimated cost of the proposed rule for state agencies or political subdivisions was not more than five hundred dollars in the aggregate.

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. 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 rules that were the subject of this case were effective on May 30, 2011. The first full fiscal year after implementation of the rules thus ended on June 30, 2012. Accordingly, September 28, 2012, 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 for public entities related to the rules have not been exceeded, no *Missouri Register* publication is required under Section 536.200.2, RSMo.

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In the Matter Of The Consideration And)	
Implementation Of Section 393.1075,)	
The Missouri Energy Efficiency)	File No. EX-2010-0368
Investment Act)	

AFFIDAVIT OF MARTHA WANKUM

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Martha Wankum, 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 Staff Memorandum, and that the facts therein are true and correct to the best of her knowledge and belief.


Martha Wankum

Subscribed and sworn to before me this 19th day of July, 2012.




Notary Public