



Nicole R. Galloway, CPA  
Missouri State Auditor

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## Economic Development

# Office of the Public Counsel

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August 2015

Report No. 2015-061



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<http://auditor.mo.gov>



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Missouri State Auditor

# CITIZENS SUMMARY

## Findings in the audit of the Office of the Public Counsel

The audit identified no significant deficiencies in internal controls, no significant noncompliance with legal provisions and no significant deficiencies in management practices and procedures. No findings resulted from our audit.

In the areas audited, the overall performance of this entity was **Excellent**.\*

\*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

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# Office of the Public Counsel

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**NICOLE R. GALLOWAY, CPA**  
**Missouri State Auditor**

Honorable Jeremiah W. (Jay) Nixon, Governor  
and  
Mike Downing, Director  
Department of Economic Development  
and  
Dustin Allison, Acting Public Counsel  
Office of the Public Counsel  
Jefferson City, Missouri

We have audited certain operations of the Office of the Public Counsel in fulfillment of our duties under Chapter 29, RSMo. The scope of our audit included, but was not necessarily limited to, the years ended June 30, 2015, and 2014. The objectives of our audit were to:

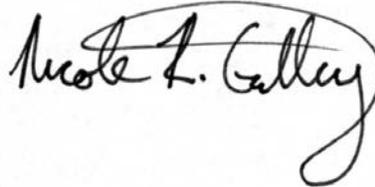
1. Evaluate the office's internal controls over significant management and financial functions.
2. Evaluate the office's compliance with certain legal provisions.
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the office, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal controls that are significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contract or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the office's management and was not subjected to the procedures applied in our audit of the office.

For the areas audited, we identified (1) no significant deficiencies in internal controls, (2) no significant noncompliance with legal provisions, and (3) no significant deficiencies in management practices and procedures. No findings resulted from our audit of the Office of the Public Counsel.

A handwritten signature in black ink that reads "Nicole R. Galloway". The signature is written in a cursive style with a large, looping flourish at the end of the name.

Nicole R. Galloway, CPA  
State Auditor

The following auditors participated in the preparation of this report:

Deputy State Auditor:	John Luetkemeyer, CPA
Director of Audits:	Douglas J. Porting, CPA, CFE
Audit Manager:	Dennis Lockwood, CPA
In-Charge Auditor:	Robert McArthur II
Audit Staff:	Steven Barton

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# Office of the Public Counsel

## Organization and Statistical Information

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The Office of the Public Counsel was established in July 1974 as a result of the provisions of the Omnibus State Reorganization Act of 1974. This act transferred the powers and responsibilities of the General Counsel to the Missouri Public Service Commission, to the Office of the Public Counsel. Chapter 386, RSMo, was amended in 1977 to explicitly define the duties and responsibilities of the Public Counsel. The Office of the Public Counsel is assigned to the Department of Economic Development (DED) and the Public Counsel is appointed by the Director of the DED.

The Office of the Public Counsel is charged with the responsibility of representing the public before the Missouri Public Service Commission. In addition to participating in rate increase cases, the Public Counsel has been involved in complaints dealing with rate reductions and cases dealing with rate design, utility mergers and acquisitions, generation capacity planning, rulemaking, and consumer complaints. The Public Counsel can appeal the decisions of the Missouri Public Service Commission to the courts of Missouri.

The Public Counsel, pursuant to Section 523.277, RSMo, appoints an ombudsman for property rights. The property rights ombudsman assists citizens by providing guidance to individuals seeking information regarding the condemnation process and procedures. The ombudsman documents the use of eminent domain within the state and submits an annual report to the General Assembly. The Public Counsel consolidated the duties of the property rights ombudsman and the Chief Deputy Public Counsel as of August 2014.

Funding for the Office of the Public Counsel is provided by the General Assembly through an appropriation to the DED from the Public Service Commission Fund. Operating costs of the Office of the Public Counsel are included in the regulatory assessments imposed upon the regulated utilities by the Public Service Commission. Those utilities recover the regulatory assessment costs from their customers through the utility rate structure.

Lewis R. Mills served as Public Counsel from May 5, 2005 until May 1, 2014. Dustin Allison was appointed as Acting Public Counsel effective May 1, 2014 and continues to serve in that capacity.

The Office of the Public Counsel at June 30, 2015, consisted of 12 full-time and 2 part-time/seasonal staff members. Besides the Public Counsel, there were 3 attorneys, 4 accountants, 2 economists, 2 administrative staff, a part-time senior analyst and a summer intern. The Office of the Public Counsel reported participating in over 20 rate cases and approximately 260 non-rate cases for the year ended June 30, 2015.

Appendix A

Department of Economic Development  
 Office of the Public Counsel  
 Comparative Statement of Appropriations and Expenditures

	Year Ended June 30,					
	2015			2014		
	Appropriation Authority	Expenditures	Lapsed Balances	Appropriation Authority	Expenditures	Lapsed Balances
<b>PUBLIC SERVICE COMMISSION FUND</b>						
Personal Service	\$ 753,858	647,951	105,907	611,612	611,548	64
Expense and Equipment	258,199	227,619	30,580	94,171	94,071	100
Total Public Service Commission Fund	\$ 1,012,057	875,570	136,487	705,783	705,619	164

Appendix B

Department of Economic Development  
 Office of the Public Counsel  
 Comparative Statement of Expenditures (From Appropriations)

	Year Ended June 30,				
	2015	2014	2013	2012	2011
Salaries and wages	\$ 647,951	611,548	582,393	566,947	561,151
Travel, in-state	4,691	4,535	4,811	6,092	2,800
Travel, out-of-state	9,473	7,646	9,370	2,966	68
Supplies	13,282	7,960	12,908	11,435	12,368
Professional development	10,820	9,777	8,099	8,454	8,600
Communication services and supplies	6,412	7,274	7,045	7,481	12,935
Professional services	174,050	54,415	54,297	71,673	69,219
Maintenance and repair services	3,802	787	688	595	1,496
Office equipment	2,320	0	286	0	0
Other equipment	2,637	1,652	9,930	0	0
Property and improvements	0	0	0	965	0
Miscellaneous	132	25	24	28	47
Total Expenditures	\$ <u>875,570</u>	<u>705,619</u>	<u>689,851</u>	<u>676,636</u>	<u>668,684</u>