

(A) Filing a pleading, in compliance with the requirements of Chapter 2 of 4 CSR 240,² which states the reason for and the length of the extension being requested, with the commission prior to April 15; and
(B) Certifying that a copy of the pleading was sent to all parties of record in pending cases before the commission where the utility's activities are the primary focus of the proceedings.³

It is readily apparent that the letter filed by Ms. Cottrill does not contain the certification required by 4 CSR 240-3.640(7)(B). And although it states the reason for and the length of the extension being requested, the letter filed by Ms. Cottrill is not a pleading which complies "with the requirements of Chapter 2 of 4 CSR 240," as required by 4 CSR 240-3.640(7)(A).

To begin with, the letter contains some, but not all, of the information required by 4 CSR 240-2.060(1),⁴ which must "be furnished prior to the granting of the relief sought."⁵

Moreover, the letter does not comply with the Commission's rules governing who may file pleadings before the Commission. This is because pleadings filed with the Commission must be signed by at least one attorney of record authorized to practice law in Missouri unless the entity signing the pleading is a natural person acting solely on his or

² See also Commission Rule 4 CSR 240-3.015(1), which states: "The requirements for filing applications for waivers or variances from commission rules and tariff provisions, as well as those statutory provisions that may be waived, are contained in Chapter 2 of the commission's rules in rule 4 CSR 240-2.060."

³ The Commission's rules are quite different (and less rigorous) if an extension of up to 30 days is requested. In such cases, the party seeking an extension need only submit the certification along with "a written request, which states the reason for the extension, to the attention of the secretary of the commission prior to April 15." 4 CSR 240-3.640(6)(A).

⁴ This regulation sets forth the filing requirements for *any* application to the Commission requesting relief under statutory or other authority. Those filing requirements are *in addition to* those imposed by 4 CSR 240-3.640(7). See 4 CSR 240-2.060(6) ("In addition to the general requirements set forth above, the requirements found in Chapter 3 of the commission's rules pertaining to the filing of various types of applications must also be met.")

⁵ 4 CSR 240-2.060(2).

her own behalf and representing only him or herself.⁶ Here, however, Deffenderfer's pleading is signed by Ms. Cottrill, who is never expressly identified as an attorney licensed to practice law in Missouri and is obviously acting on behalf of the corporation, not on her own behalf as a natural person or as the individual owner of Deffenderfer. Therefore, the pleading is effectively unsigned, and under the Commission's rules, unsigned pleadings are generally rejected.⁷

Likewise, Deffenderfer has failed to meet the requirements of 4 CSR 240-2.080(18), which states that "the party filing a pleading . . . shall serve [on] every other party, including the general counsel and the public counsel, a copy of the pleading[.]" Commission Rule 4 CSR 240-2.080(19) further states that "[e]very pleading . . . shall include a certificate of service," which "shall be adequate proof of service." Ms. Cottrill's submission does not comply with either of these rules, because it does not include a certificate of service and does not otherwise affirmatively indicate that it was served on the General Counsel of the Commission and the Office of the Public Counsel.

Under normal circumstances, the Commission would reject the pleading filed by Ms. Cottrill on behalf of Deffenderfer, close this case, and advise her to engage an attorney authorized to practice law in Missouri and submit a new pleading in proper form under a new case number. This is especially true here, since the Commission expressly notified all Missouri public utilities, by letter dated January 19, 2007, that:

⁶ See 4 CSR 240-2.080(1), (2), & (6); 4 CSR 240-2.040(3) & (5). The underlying basis for these rules can be found in Sections 484.010 and 484.020. Section 484.010 defines the practice of law as "the appearance as an advocate in a representative capacity or the drawing of papers, pleadings or documents or the performance of any act in such capacity in connection with proceedings pending or prospective before any court of record, commissioner, referee or any body, board, committee or commission constituted by law or having authority to settle controversies." Section 484.020 restricts the practice of law and engagement in law business to licensed attorneys.

⁷ 4 CSR 240-2.080(5).

All requests for an extension of 30 days or more must be filed prior to April 15th as a legal pleading. If the Company is a corporation or partnership, the pleading must be filed by an attorney licensed to practice in Missouri. If the utility is individually-owned, the Company owner may file this pleading. The pleading must state the reason for the extension and certify that a copy of the written request was sent to all parties of record in pending cases where the Company's activities are the primary focus of the proceeding (i.e., where the Company is identified as a moving party in the case caption). The filing should be submitted in pleading form and comply with the filing requirements of Chapter 2 of 4 CSR 240.

Nevertheless, since the April 15, 2007 deadline for the filing of Deffenderfer's annual report for the calendar year 2006 is quickly approaching and any water utility that does not timely file its annual report is subject to a penalty of \$100, as well as an additional penalty of \$100 for each day the utility is late in filing the report,⁸ the Commission will instead simply issue a notice of deficiency. The deficiencies described above must all be corrected before the Commission will take any further action on or give any further consideration to Deffenderfer's request for a 60-day extension of the due date for its 2006 annual report.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Dated at Jefferson City, Missouri,
on this 30th day of March, 2007.

Lane, Regulatory Law Judge

⁸ See 4 CSR 240-3.640(9); Section 393.140(6).