

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

In the matter of Union Electric Company d/b/a)	
AmerenUE for Authority to File Tariffs Increasing)	
Rates for Electric Service Provided to Customers)	Case No. ER-2010-0036
In the Company's Missouri Service Area)	

NOTICE

On October 1, 2009 I received a letter from Mr. Dale Grant regarding "Unresolved hazardous conditions at Spring Lake in Jefferson County, Missouri." The letter also contained a copy of an electronic mail message from newsletters@mikeholt.com to Mr. Dale Grant, dated September 23, 2009 regarding "A Case of Stray Voltage in a Lake."

First, Mr. Grant's letter and its attached electronic mail message appear to fall within the type of communication contemplated by section 386.210.4 RSMo (Supp. 2008) because quality of service issues raised in the letter are within the scope of the "merits of the specific facts, evidence, claims, or position presented or taken in a pending case." Also, the letter was not presented at a forum where the representatives of AmerenUE, the office of the public counsel and any other party to the case were present or at a commission agenda meeting or forum.

My review of the case file indicates that Mr. Grant did not file a copy of his written communication in the official case file nor does it appear from reading the communication that it was served upon *all* parties of record. This Commissioner is under **no statutory obligation to take any action with regard to this letter**; rather, the General Assembly has placed that burden upon the "person or party" that makes the communication, not the Commission, nor this Commissioner. Here the burden is on Mr. Grant.

Second, is the question of the application of the Commission's *ex parte* communication rule and whether it is applicable to the communication at hand. 4 CSR 240-4.020(8) addresses *ex parte* communications, and the steps which are necessary when a Commissioner receives a communication. Because I am unable to ascertain whether or not Mr. Grant is a party or an agent of a party in this case, the most cautious practice is to treat him as if he is.

The only representation Mr. Grant makes is that he is a "licensed electrical contractor – Illinois, Grant Electric." Because the Commission granted numerous parties intervention without requiring compliance with 4 CSR 240-2.075(3),^{1,2} figuring out whether someone fits within the framework of the Commission's *ex parte* communication rule is impossible, unless that person makes a direct representation. In other words, I have no idea whether Mr. Grant is a member of one or more of the many associations granted intervention in this case. Whether an association's membership is small in number or large, disclosure of the members would work to ensure that compliance with the Commission's *ex parte* communication rules can be applied.

That is why here I choose to chart a course of utmost caution, and treat this communication as if it were an *ex parte* communication. Out of an abundance of caution, and to ensure transparency, I have prepared a report in accordance with 4 CSR 240-4.020(8) and distributed that report in conformance with the rule. I am also filing this Notice here, though I am not required to do so.


Terry M. Jarrett, Commissioner

Issued this 2nd day of October, 2009.

¹ "[A]n association filing an application to intervene shall list all of its members."

² See *Dissenting Opinion of Commissioner Terry M. Jarrett*, Case No. ER-2010-0036.