

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

In the matter of Missouri-American Water Company's)
Request for Authority to Implement a)
General Rate Increase for Water Service)
Provided in Missouri Service Areas) Case No. WR-2010-0131

NOTICE

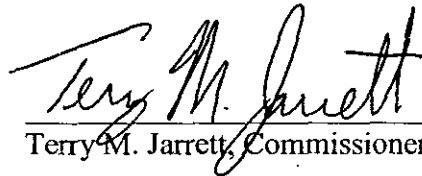
On November 23, 2009 I received a letter dated November 17, 2009 from Mr. Chad Fulton, President of the Midland Empire Home Builders Association regarding "Missouri American Water Company rate hikes 2009." My review of the docket in this case shows that neither Mr. Fulton, nor the Midland Empire Home Builders Association is a party to the above captioned matter, nor has either of them filed an application to intervene.

The rules of the Missouri Public Service Commission ("Commission") are absent any standard for reporting or disclosure characterized as "External Communication" nor is that term defined in the Commission rules or Missouri law. As such, any "External Communication" reports filed in any case are advisory and voluntary on the part of those that choose to create them.¹ The Commission's rules do, however, contain limitations for *ex parte* communications. 4 CSR 240-4.020(8) addresses *ex parte* communications, and the steps which are necessary when a Commissioner receives a communication. Those rules however do not apply to non-parties and as such, there is no Commissioner reporting requirement. To the contrary – Missouri law precludes my disclosure or release of this letter absent an "order of the commission." Section 386.480 RSMo (2000). No such order has been issued. While section 386.480 allows a

¹ It has become the custom and practice of some Commission members to file in various dockets reports titled "External Communication" reports. I respect their choice of action; however, from my perspective the law and the rules provide the best guidance.

commissioner “in the course of a hearing or proceeding” to disclose this information, it is not mandatory.

Ultimately, reviewing the docket is not a sufficient tool for determining whether Mr. Fulton or the Midland Empire Home Builders Association is a party, or an agent of a party in this case – absent a direct representation to that effect. Therefore the most cautious practice is to treat him, as well as the Association he represents, as if they are parties. Here is where 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 not required to do so.


Terry M. Jarrett, Commissioner

Issued this 24th day of November, 2009.