
From: Trey Davis [<mailto:Trey@missourienergy.org>]

Sent: Tuesday, May 29, 2012 11:13 AM

To: Reed, Steven

Subject: MEDA Comments on Ex-Parte rule draft

Dear Steve,

On behalf of MEDA and its members, I want to thank you for the opportunity to submit some additional suggestions relating to the Ex-Parte Rule. The attached draft begins with the revised version you sent out several months ago. I have tried to highlight in yellow the key changes we are suggesting and include in brackets additional explanations of why we believe these changes make sense from a policy perspective. Among other things, these proposed revisions are designed to:

(a) ensure that the notice and other communications restrictions mandated by the Rule apply equally to everyone – a concept that I believe everyone at our meetings has essentially agreed to;

(b) eliminate the 60 day contested filing notice in its entirety or allow it to be satisfied with a certification made at the time of the filing which describes all the communications that took place during the 60 days preceding the filing with covered personnel. If neither of these alternatives work, revise the provision so that a filing party can obtain a waiver of the requirement by certifying that it has *not* had communications relating to the filing with any covered PSC personnel for the 60 day period preceding the filing (I should note that in a recent PSC matter involving a filing by Laclede Gas Company, the PSC found that such a representation constituted good cause for a waiver under the rule) (See Section (2));

(c) consistent with your recommendation, create a central depository for ex-parte communication filings (See Section (4));

(d) ensure that ALL parties are permitted to communicate with the Commissioners on matters being addressed in a rulemaking or, alternatively that NO parties or other entities are permitted to do so (as you know a number of MEDA members were concerned about one-sided communications that seemed to have occurred on the rulemaking that was instituted to address renewable legislation) (See Subsection (10)(A)(12))

(e) resolve those seemingly inconsistent provisions of the Rule that, on the one hand, restricts parties from addressing issues that are likely to arise in a contested case (Section 11) and, on the other hand, freely allows the PSC to address issues with parties that were just raised in a completed rate case (Section 13). We have recommended three potential alternatives for dealing with this inconsistency. One alternative would allow the Commission do conduct a “case review” within 60 days so long as all parties are notified and allowed to participate; a second alternative would allow the Commission to discuss issues from the prior case or general ratemaking principles at any time up until another contested case notice is filed, and the third alternative would essentially prevent any communications regarding potential issues between cases.

If our members have anything further to add, I will certainly send along their comments. In the meantime, please do not hesitate to contact me if you have any questions or comments. Again, thank you for your openness and constructive approach on this matter.

Sincerely,

Trey

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