



Commissioners
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
SHEILA LUMPE
STEVE GAW

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.state.mo.us>

November 14, 2001

ROBERT J. QUINN, JR.
Executive Director
WESS A. HENDERSON
Director, Utility Operations
ROBERT SCHALLENBERG
Director, Utility Services
DONNA M. KOLILIS
Director, Administration
DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

FILED³

NOV 14 2001

Dale Hardy Roberts, Secretary
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Missouri Public
Service Commission

RE: AX-2002-66 — Comment on Proposed Amendment to 4 CSR 240-2.080

Dear Mr. Roberts:

Please accept this comment on behalf of my office.

As proposed, a party filing a pleading must continue to file an original and eight copies with the Commission [4 CSR 240.080(8)] and the party is directed to serve each other party [section (10)]. Also, proposed section (11) continues to provide that the date of filing shall be the date the pleading or brief is stamped filed by the secretary of the Commission and section (15) allows parties not more than ten days from the date of filing to respond to a pleading, unless otherwise ordered by the Commission. These requirements are unchanged from the existing rule. However, I would like to note a problem that has not been completely addressed by the April 2000 change to this rule, which can be dealt with in this rulemaking.

At present, and under the proposed amendment, the above-cited sections interact so that a party can come to the office of the Commission and hand-deliver a pleading to be filed, or send a document to the Commission by a means faster than normal mail (e.g., Federal Express®, etc.), but then serve other parties, the General Counsel's Office (GCO) included, by normal mail. [See proposed sections (17) and (18).] In practice, this frequently results in a substantial delay between the date the pleading is filed with the Secretary of the Commission (which triggers the start of the ten-day period for response) and the actual date in which the GCO receives a copy of the pleading for review and response. It is especially problematic when the party filing is also seeking expedited treatment. In addition, some outside counsel have been confused since the

November 14, 2001

Page 2

implementation of the April 2000 rule change that required that an original plus eight copies be filed. Many erroneously assumed that the GCO received one of the eight copies filed with the Commission. In fact, GCO does not receive any of the copies

While the proposed amendment [section (8)] allows for the filing of electronic copies that will be almost immediately available to the GCO, the rule still permits paper filings that might be subject to delayed regular mail service. This problem can be alleviated by changing proposed sections (8) and (18) as follows (bold type is proposed language):

(8) Any person filing a pleading or a brief shall file with the secretary of the commission either:

(A) One (1) paper original and **nine (9)** paper copies of the pleading; or

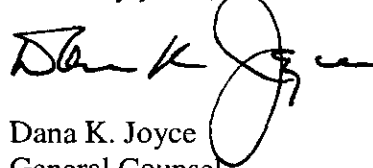
(18) Unless otherwise provided by these rules or by other law, the party filing a pleading or brief shall serve every other party, including the general counsel and the public counsel, a copy of the pleading or brief and cover letter. **Compliance with section (8) of this rule shall constitute service to the general counsel.**

Parties have to serve the GCO with pleadings as the rule stands now. This change should have no additional fiscal impact on serving parties. In fact it is possible that in some instances total cost of filing and serving parties could be decreased by this small change in the rule because instead of incurring the mailing expense of sending a separate document to the GCO, parties could simply add an additional copy to the package filed with the Commission.

A more comprehensive solution would be to amend sections (10) and (18) to require a non-electronic filing party to contemporaneously serve represented parties on the date of filing with the Commission, via methods of service contained in subsection (17)(A) of this rule. However, since firms that will make electronic filings represent the utilities that do the vast majority of the filings, that large a change may not be necessary.

Thank you for your consideration of our comments.

Sincerely yours,



Dana K. Joyce
General Counsel

djoyce@mail.state.mo.us