

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
January 11, 2001**

CASE NO: ER-2001-299

Office of the Public Counsel
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General Counsel
Missouri Public Service Commission
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Jefferson City, MO 65102-0456

**Enclosed find certified copy of a NOTICE REGARDING *EX PARTE* COMMUNICATION
in the above-numbered case(s).**

Sincerely,



**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 11th
day of January, 2001.

In the Matter of The Empire District Electric)	
Company's Tariff Sheets Designed to Implement)	<u>Case No. ER-2001-299</u>
a General Rate Increase for Retail Electric)	Tariff No. 200100518
Service Provided to Customers in the Missouri)	
Service Area of the Company.)	

NOTICE REGARDING EX PARTE COMMUNICATION

On the afternoon of January 4, 2001, John Coffman, an attorney representing the Office of the Public Counsel dispatched an electronic communication or "e-mail" concerning the above-styled matter to each of the members of the Commission and to the presiding officer. This communication included a statement that it had been forwarded to all counsel of record in this case. The purpose of this communication was evidently to correct a perceived misstatement by the presiding officer made during the Commission's public session that morning.

The Commissioners and the presiding officer, in their role as adjudicators, are bound by the same rules as judicial officers concerning *ex parte* communications. The Commission considers the informal communication in question to be an *ex parte* contact and a copy has been provided to each party and placed in the official file. The Commission takes the additional step of issuing this notice in order to make it clear to the parties and their representatives that they should not communicate with the Commissioners regarding an active case except formally, by a pleading filed with the Secretary of the Commission and copied to every other party.

The parties must understand that casual communications such as the one which is the subject of this notice are not appropriate. The Commission conducts its business in public session at its Agenda Meetings, including deliberations and discussions of pending contested cases.

For these reasons, the Commission hereby advises the parties to this action to refrain from such casual and informal communications, whether electronic or by other means, with the members of the Commission or the presiding officer concerning a pending contested case. The parties may bring appropriate matters to the attention of the Commission by filing a pleading pursuant to the Commission's rules of practice and procedure.

BY THE COMMISSION

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Drainer, Murray,
Schemenauer, and Simmons, CC., concur.

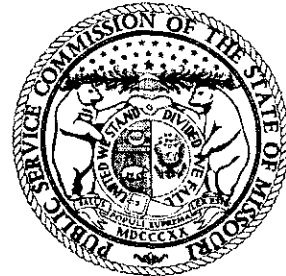
Thompson, Deputy Chief Regulatory Law Judge

Notice of *Ex Parte* Contact

TO: Records Department: All Parties in Case No. ER-2001-299.
All Commissioners

FROM: Kevin A. Thompson

DATE: January 9, 2001.



On **January 4, 2001**, I received the attached document via electronic transmission from **John Coffman**. The document relates to a contested case currently under consideration by the Commission, Case No. **ER-2001-299**. The Commission is bound by the same *ex parte* rule as a court of law.

Pursuant to 4 CSR 240-4.020(4) it is improper for any person to attempt to sway the judgement of the Commission by undertaking, directly or indirectly, outside the hearing process, to bring pressure or influence to bear upon the Commission, or the Regulatory Law Judge assigned to the proceeding. Whenever such contact might occur, 4 CSR 240-4.020(a) states: as *ex parte* communications (either oral or written) may occur inadvertently, any member of the Commission or Regulatory Law Judge who received the communication shall immediately prepare a written report concerning the communication and submit it to the Chair and each member of the Commission. The report shall identify the person(s) who participated in the *ex parte* communication, the circumstances which resulted in the communication, the substance of the communication, and the relationship of the communication to a particular matter at issue before the Commission.

Therefore, out of an abundance of caution, I think it appropriate to submit this notice of *ex parte* contact pursuant to the standards set out in the rules cited above. This will ensure that any party to this case will have notice of the attached information and a full and fair opportunity to respond to the comments contained therein.

cc: Executive Director
Secretary/Chief Regulatory Law Judge
General Counsel

Thompson, Kevin

From: Coffman, John
Sent: Thursday, January 04, 2001 2:24 PM
To: Simmons, Kelvin; Drainer, Dianne; Lumpe, Sheila; Schemenauer, Robert; Murray, Connie
Cc: Thompson, Kevin; Frey, Denny; 'stucon@fcplaw.com'; 'Duffy@Brydonlaw.com'; Hogerty, Martha; Micheel, Doug; Trippensee, Russ
Subject: Clarification--Empire rate case--Case No. ER-01-299

Based upon a recounting of the discussion at today's PSC agenda meeting, I felt that a point of clarification was in order.

The Office of the Public Counsel has been actively involved in the ongoing Empire District Electric Company rate case, Case No. ER-01-299, and jointly filed a December 29, 2000 pleading which proposed a procedural schedule and other agreements that had been negotiated among all parties to this case.

Sincerely,
John Coffman

All parties of record have been copied with this e-mail.

ALJ/Sec'y:

Thompson, Joyce

Date Circulated

1-10

CASE NO.

ER-2001-299

JS
Lumpke, Chair

na
Drainer, Vice Chair

CM
Murray, Commissioner

RS
Schenenauer, Commissioner

KS
Simmons, Commissioner

Agenda Date

1-11

OK

Action taken:

5-044A

Must Vote Not Later Than

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,

Missouri, this 11th day of Jan. 2001.

Dale Hardy Roberts

Dale Hardy Roberts

Secretary/Chief Regulatory Law Judge

