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October 29, 1999

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

FILED³

OCT 29 1999

Missouri Public
Service Commission

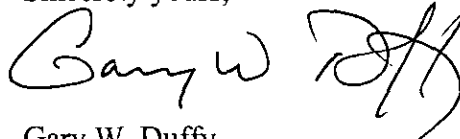
RE: Case No. AX-2000-114

Dear Mr. Roberts:

Enclosed for filing in the above-referenced proceeding please find an original and fourteen copies of the initial comments of Brydon, Swearengen & England, P.C.

If you have any questions, please give me a call.

Sincerely yours,



Gary W. Duffy

Enclosures
cc w/encl: Office of Public Counsel

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the matter of Proposed Rule)
4 CSR 240-2.070 Complaints)

Case No. AX-2000-114

COMMENTS OF BRYDON, SWEARENGEN & ENGLAND, P.C.

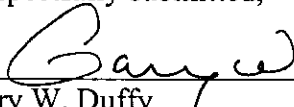
Comes now the law firm of Brydon, Swearngen & England P.C. and for its comments in this matter respectfully states as follows:

1. These comments are in response to the numerous notices of proposed rulemaking published in the *Missouri Register* on October 1, 1999 (24 Mo.Reg. 2318 through 2340). The law firm of Brydon, Swearngen & England P.C. ("BSE") routinely represents numerous utilities who are regulated by the Commission. Therefore, the firm is required to utilize and abide by the rules of practice and procedure of the Commission, and thus members of the firm and their clients will be affected by changes in those rules. Several members of the firm have experience with the existing rules of practice and procedure of the Commission since their inception in 1975.

2. Section (1) of 4 CSR 240-2.070 as proposed would allow the "commission staff through the general counsel" to file a complaint with the Commission. Rules of the Commission may not extend or modify a statute. If they do, they are void. See, e.g., *Missourians for Honest Elections v. Missouri Elections Commission*, 536 S.W.2d 766, 772 (Mo.App.E.D. 1976). The parties who are authorized to file a complaint before the Commission are already listed in the statutes, e.g. §386.390 RSMo 1994. The statutes do not include any reference to any entity described as "the commission staff." The Commission therefore should remove this reference since it does not have the legal authority to confer a right to file a complaint on "the commission

staff.”

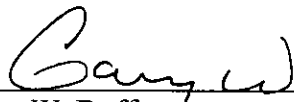
Respectfully submitted,



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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing was served by hand delivery on the Office of the Public Counsel and the Office of the General Counsel of the Commission this 29th day of October, 1999.



Gary W. Duffy