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November 1, 1999

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED
NOV - 1 1999
Missouri Public
Service Commission

Re: Case No. AX-2000-109

Dear Mr. Roberts:

The Office of the Public Counsel makes the following comments on the proposed revision to the Commission rules:

4 CSR 240-2.015 Waiver of Rules

OPC opposes this rule revision.

The rule is too broad and does not provide adequate due process safeguards, including notice and opportunity to be heard on the proposed waiver. It does not provide a process for the waiver or any limitation on the proposed waiver. It appears that the PSC could waive its rules sua sponte without notice. At a minimum, the rule should provide that the Commission may waive or modify a rule upon application of a party, with proper notice and an opportunity to intervene, and with an adequate and reasonable opportunity to be heard, for good cause shown.

It is error for the PSC not to follow its own rules. The broad, open-ended waiver provisions essentially leaves the rules and their application solely at the PSC's discretion and whim and do not provide the predictability and protection that the rules of procedure are designed to provide.

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We have enclosed the original and fourteen copies for filing with the Commission.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Michael F. Dandino".

Michael F. Dandino
Senior Public Counsel

MFD:kh

cc: Counsel of record