

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of a Working Case Regarding)
Amendments to the Commission's Ex Parte) File No. AW-2016-0312
and Extra-Record Communications Rule.)

COMMENTS OF DOGWOOD ENERGY, LLC

Comes now Dogwood Energy, LLC and provides the following comments regarding the proposed amendments to Chapter 4 of the Commission's rules which were attached to the Commission's June 8, 2016 Order in this matter, as follows:

1. Dogwood supports the Commission's effort to simplify its rules while remaining in compliance with applicable law. The use of a central repository will be an improvement, provided that interested persons will be able to readily search among filings. The Commission should consider directing that the repository be structured to allow for searches for filings made within specific time periods and/or made by specific parties.

2. In proposed rule 4.017(2), it would be beneficial to confirm that good cause includes filing the notice as soon as practicable under the specific circumstances. Additionally, the rule should require either a certification that there has been no substantive discussion with the office of the commission within the 90 day (or 180 day) period or a full disclosure of any such discussion.

3. In proposed rule 4.017(4), the rule should continue to limit communications while an appeal is pending, given that a case could be remanded for further action by the commission.

4. In proposed rule 4.020(3), the rule should characterize the required notice as a notice of violation and include a requirement that an explanation be provided as to why the violation

occurred. As currently drafted, subsection (3) conflicts with the prohibition in subsection (1). Given the prohibition against such communications, these filings should be infrequent and the rule should not dilute the prohibition by implying that disclosed violations will not have consequences.

5. In proposed rule 4.030, the rule should include requirements similar to those set forth in 4.020 directing that the office of the commission should not initiate such communications and should strive to terminate them.

6. In proposed rule 4.040, the rule should not allow informal communications about items 1-4 if the subject matter actually otherwise meets the definition of ex parte or extra record communications. If a communication concerns substantive issues in a pending or noticed contested case, due process would dictate that the parties to the proceeding be given more notice than the abrupt posting of a meeting agenda under the sunshine law and that they be given other participatory rights under contested case procedures. In any contested case the Commission has the ability to schedule proceedings that meet due process requirements. Moreover, as has already occurred, once one party gets a substantive issue on the commission's agenda, other interested parties will want equal opportunities. Proceeding at agenda session in such a manner is not only outside the bounds of due process, but also highly inefficient and ineffective.

7. One additional minor observation: the proposed rules at times refer to "pending contested cases" as compared to "noticed contested cases", and at other times refer just to "contested cases" as compared to "noticed contested cases".

WHEREFORE, Dogwood Energy, LLC submits these comments to aid the Commission in its consideration of potential rule amendments.

CURTIS, HEINZ,

GARRETT & O'KEEFE, P.C.

/s/ Carl J. Lumley

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served upon the parties listed below on this 22d day of August, 2016, by either e-mail or U.S. Mail, postage prepaid.

____/s/ Carl J. Lumley_____

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