

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the Application of Elm Hills Utility )  
Operating Company, Inc., and Missouri Utilities )  
Company for Elm Hills to Acquire Certain Water and )  
Sewer Assets of Missouri Utilities Company, For a )  
Certificate of Convenience and Necessity, and, in )  
Connection Therewith, to Issue Indebtedness and )  
Encumber Assets. )

**File No. SM-2017-0150**

**NOTICE OF COMMUNICATION**

Issue Date: January 11, 2017

Commission Rule 4 CSR 240-4.020(3)(B) prohibits a presiding officer assigned to a proceedings from participating in or undertaking – directly or indirectly – an ex parte communication regarding a contested case or anticipated contested case. Commission Rule 4 CSR 240-4.020(1)(G) defines an “ex parte communication” to be a communication regarding any “substantive issue.” Subsection (O) of the same regulation defines “substantive issue” as:

The merits, specific facts, claims, or positions which have been or likely to be presented or taken in a contested case. The term substantive issue does not include procedural issues, unless those procedural issues are contested or likely to materially impact the outcome of a contested case.

Although the communication below does not involve a substantive issue, it appears to seek legal advice on the handling of a procedural dispute. Therefore, Presiding Officer Kim Burton provides the following notice, consistent with the requirements of Commission Rule 4 CSR 240-4.020(3)(C):

On January 11, 2017, Assistant Staff Counsel Whitney Payne emailed me and stated that the attorneys for Staff had not received responses to data requests sent to Mr. Gary Cover. Ms. Payne wrote that she and Jacob Westen did not receive responses by the promised date of January 9, 2017. Ms. Payne requested my advice as to how Staff could handle the situation going forward. Jacob Weston was copied on the email. A copy of the communication is attached.

Kim Burton  
Regulatory Law Judge