



Emerald Pointe's motion asks the Commission to extend the filing date for the disposition agreement from February 11, 2013 to March 13, 2013. It also asks that the 9-month deadline be extended from April 16, 2013 to May 16, 2013, and that the 11-month deadline be extended from June 16, 2013 to July 16, 2013.

There is no provision in the Commission's regulation that would allow the Commission to further extend the filing dates set out in the regulation. For that reason, Emerald Pointe asks the Commission to waive application of the provisions of the regulation that establish the filing dates. Unfortunately, there is also no provision in the regulation that would allow the Commission to waive those provisions.

The Commission's rules have the force and effect of law and they are binding, even on the Commission. However, "the failure of an agency to comply with its own rules may invalidate its actions only when prejudice results."<sup>1</sup> In this case, the filing dates established in the regulation are designed to protect the utility's interest by prodding the Commission to promptly act on the small utility's request for a rate increase. However, in the circumstances before the Commission, adhering to the dates established by the regulation would harm the small utility by precluding the prompt consideration of a substantial investment on the part of the utility. Clearly, Emerald Pointe would not be prejudiced if the Commission grants its request for an extension. Furthermore, the motion represents that Staff and Public Counsel, the only other parties to this case, are not opposed to the requested extension. Therefore, they cannot be prejudiced if the extension is granted. Therefore, the Commission will grant the extension that Emerald Pointe requests.

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<sup>1</sup> *Missouri Nat. Educ. Ass'n v. Mo. State Bd. of Mediation*, 695 S.W.2d 894, 897 (Mo. 1985).

**THE COMMISSION ORDERS THAT:**

1. The filing dates regarding Emerald Pointe Utility Company's request for a rate increase are extended as follows:
  - a. The filing date for the disposition agreement is extended from February 11, 2013 to March 13, 2013;
  - b. The 9-month deadline is extended from April 16, 2013 to May 16, 2013; and
  - c. The 11-month deadline is extended from June 16, 2013 to July 16, 2013.
2. This order shall become effective upon issuance.

**BY THE COMMISSION**



Shelley Brueggemann  
Acting Secretary

( S E A L )

Morris L. Woodruff, Chief Regulatory Law Judge,  
by delegation of authority pursuant to  
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 15<sup>th</sup> day of February, 2013.