

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

In the Matter of the Application of Peaceful Valley )  
Service Company Request for Increase in Sewer ) **File No. SR-2014-0153**  
Operating Revenues. )

In the Matter of the Application of Peaceful Valley )  
Service Company Request for Increase in Water ) **File No. WR-2014-0154**  
Operating Revenues. )

**NOTICE OF OBJECTION TO EX PARTE COMMUNICATION**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Notice of Objection to Ex Parte Communication states as follows:

1. On August 27, 2014, the below-signed attorney for Public Counsel participated in a meeting between the assigned Regulatory Law Judge for these cases, Kim Burton, and the attorney for the Staff of the Missouri Public Service Commission (Staff), Kevin Thompson.
2. At this meeting Public Counsel learned that subsequent to the Missouri Public Service Commission (Commission) Agenda session on August 20, 2014, Judge Burton initiated and held on-going discussions both orally and through email with Mr. Thompson as well as the head of Staff's Water and Sewer Division, Jim Busch, regarding these cases and the availability of a representative for Peaceful Valley to be present in Jefferson City, MO to answer questions the Commissioners apparently have regarding the cases. Public Counsel, although a party to these cases, was not included in or informed of any of these discussions. (And it is unclear to what extent the utility was invited to participate in any or all of these discussions with the Judge.)
3. Commission Rule 4 CSR 240-020 (1) (G) defines Ex Parte Communication as:

**Any communication outside of the contested case hearing process between the commission, a commissioner, a member of the technical advisory staff, or the presiding officer assigned to the proceeding and any party or anticipated party, or the agent or representative of a party or anticipated party, regarding any substantive issue.** Ex parte communications shall not include a communication regarding general regulatory policy allowed under section 386.210.4, RSMo, communications listed in section (3) of this rule, or communications that are de minimis or immaterial. [emphasis added.]

4. Being substantive in nature, the discussion between Judge Burton, Mr. Thompson and Mr. Busch without a representative of Public Counsel present was a communication outside the contested case hearing process between the presiding officer, a party and a representative of a party and therefore, meets the definition of an ex parte communication.

5. Regarding an ex parte communication, Commission Rule 4 CSR 240-4.020 (3) (B) states quite clearly:

A commissioner, technical advisory staff, or **the presiding officer assigned to a proceeding shall not initiate, participate in, or undertake, directly or indirectly, an ex parte communication regarding a contested case or anticipated contested case.** However, it shall not constitute participation in or undertaking an ex parte communication if such person—

1. Does not initiate the communication;
2. Immediately terminates the communication, or immediately alerts the initiating person that the communication is not proper outside the hearing process and makes a reasonable effort to terminate the communication; and
3. Files notice in accordance with section (4) of this rule, as applicable. [emphasis added.]

6. Commission Rule 4 CSR 240-4.020 (3) (C) states:

Should an ex parte communication occur, the party or anticipated party involved in such communication shall file a notice in the case file if such exists or if not, with the secretary of the commission. Such notice shall provide the information required in section (4) of this rule.

7. To date no notice has been filed by Judge Burton, Mr. Thompson or Mr. Busch. Therefore, the ex parte communication between Judge Burton, Mr. Thompson and Mr. Busch occurred in violation of Commission Rule 4 CSR 240-4.020 (3) (B).

8. Public Counsel brings these discussions between Judge Burton, Mr. Thompson and Mr. Busch to the attention of the Commission and notices its objection to this ex parte communication. Public Counsel asks the Commission take any action the Commission should deem just and reasonable under the circumstances.

**WHEREFORE**, Public Counsel respectfully submits its Notice of Objection.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

**/s/ Christina L. Baker**

By: \_\_\_\_\_

Christina L. Baker (#58303)  
Deputy Public Counsel  
P O Box 2230  
Jefferson City, MO 65102  
(573) 751-5565  
(573) 751-5562 FAX  
christina.baker@ded.mo.gov

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 27<sup>th</sup> day of August 2014:

General Counsel Office  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
staffcounsel@psc.mo.gov

Kevin Thompson  
General Counsel Office  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
Kevin.Thompson@psc.mo.gov

Peaceful Valley Service Company  
3408 B Peaceful Valley Road  
Owensville, MO 65066  
pvsc@fidmail.com

**/s/ Christina L. Baker**

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