

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Lake Region Water & Sewer) File No. SR-2010-0110
Company's Application to Implement a General) Tariff No. YS-2010-0250
Rate Increase in Water and Sewer Service)

In the Matter of Lake Region Water & Sewer) File No. WR-2010-0111
Company's Application to Implement a General) Tariff No. YW-2010-0251
Rate Increase in Water and Sewer Service)

NOTICE OF EXTRA-RECORD/EX PARTE COMMUNICATION

Issue Date: August 27, 2010

On August 27, 2010, the Regulatory Law Judge in these matters, Harold Stearley, received the attached e-mail from Mr. Mike Becker. The evidentiary hearing concluded on June 24, 2010, the final round of post-hearing briefs were filed on July 16, 2010, and the cases were deemed submitted for the Commission's decision on that date. The Commission issued its Report and Order on August 18, 2010, and that order becomes effective on August 28, 2010. The order approving compliance tariffs was issued on August 25, 2010, and becomes effective on September 6, 2010. This communication has occurred outside of the contesting hearing process, and the cases are not finally adjudicated as defined in Commission Rule 4 CSR 240-4.020(1)(I) because the Commission's decision is still subject to appeal.

Commission Rule 4 CSR 240-4.020(1)(G) and (H) define ex parte and extra record communications as follows:

(G) Ex parte communication—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.

(H) Extra-record communication—Any communication outside of the contested hearing process between the commission, a commissioner, a member of the technical advisory staff, or the presiding officer assigned to the proceeding and any individual interested in a contested case or anticipated contested case regarding any substantive issue. Extra-record communications shall not include communications that are *de minimis* or immaterial.

Mr. Becker could be construed to be a party to these matters because the Office of the Public Counsel represents the ratepayers and the public. Regardless of Mr. Becker's classification, the communication must be disclosed and reported.

Commission Rules 4 CSR 240-4.020(3) and (4) require the person initiating an *ex parte* or extra record communication to file a notice regarding the communication. Because Mr. Becker may not be familiar with the intricacies of the Commission's rules, the RLJ is filing this notice. The e-mail communication is attached as follows:

From: Stearley, Harold
Sent: Friday, August 27, 2010 11:13 AM
To: Mike Becker
Subject: RE: question regarding Lake Region case [SPVG1.FID271561]
Good Morning Mr. Becker,

I appreciate your interest in these matters, but pursuant to the Commission's Standard of Conduct Rules I am unable to respond to your inquiry. I will be posting a formal notice of this communication in the case files and attaching a copy of these e-mails to that notice.

You may be able to address your inquiry to one of the parties to this action, but not to the Commissioners, the Presiding Officer, or the technical advisory staff of the Commissioners.

Sincerely, Judge Stearley

From: Mike Becker [mrb1913@gmail.com]
Sent: Friday, August 27, 2010 10:34 AM
To: Stearley, Harold
Cc: Mike Becker
Subject: question regarding Lake Region case [SPVG1.FID271561]
Judge Stearley,

I do not know whether you can answer my question directly but I thought no harm in asking.

My name is Mike Becker. I am a Porto Cima resident and am on the board of directors of the Four Seasons Lakesites property owners association. However I am asking for this answer as an interested citizen.

I testified at the public hearing in Osage Beach regarding the above case...regarding availability. I also attended several days of sessions in Jeff city.

I read the order that was issued in the Lake Region case but am unsure as to a point.

I am trying to determine whether or not the PSC , as a result of this case, maintains the is DOES or DOES not currently have jurisdiction over availability fees...either in this case or in all cases.

Several of us who have read the order have differing opinions...and we do not wish to cause confusion.

The way that I interpret the order is that the PSC says it does NOT currently have jurisdiction by fiat in this case. It WILL enter into a rule making process in the future to determine whether it will issue rules regarding availability and Lake Region will need to come back for rates on three years.....but I do not see the PSC as clearly stating that it has current jurisdiction regarding availability.

You may not be able to answer this because of future litigation , but if you can, I would appreciate a simple yes or no.

thank you

Mike Becker

The RLJ is in compliance with Commission Rule 4 CSR 240-040(3) for having immediately, upon receipt of the communication, alerted the initiating person that the communication is not proper outside the hearing process, having made a reasonable effort to terminate the communication, and by filing this notice.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'S. C. Reed', is positioned above the printed name and title.

Steven C. Reed
Secretary

(S E A L)

Harold Stearley, Senior Regulatory Law Judge