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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 10th
day of November, 1994.

Capital Utilities, Inc.'s request)
for increased rates for sewer)
service pursuant to the Commission's) Case No. SR-95-39
informal rate procedure.)

ORDER REJECTING PLEADINGS

On October 14, 1994, the Commission issued an Order Approving
Tariff in this case. The Commission made a finding that significant public
concern regarding the level of proposed rates in relationship to the
quality and kinds of service offered by the company existed. Pursuant to
a suggestion of the parties, a procedure was proposed for the resolution
of the complaints which had been raised within this case. The Order
Approving Tariff stated:

"It was anticipated that such a stipulation would
be filed relating to the service related complaints
and which would address with specificity and in a
binding manner the procedure to be followed for the
resolution of those complaints. Instead, the
Commission has merely received an item of
correspondence which was submitted by a non-
attorney and which was not filed with the
Commission until the day before this order appeared
for Commission action."

However, the Commission expressed its hesitancy to suspend the
tariff or further delay this case for the purpose of investigating those
complaints. In the alternative, the Commission found that Capital
Utilities had agreed to complete numerous items relating to safety,
maintenance and repair by certain dates and the Commission further found
that the timely completion of those items would be in the public interest.
The Commission's order, Paragraphs 2-7, set out those items which required

action by Capital Utilities, Inc. (Capital) by certain dates.

Ordered Paragraph 8 from the Order stated:

"As to each and every requirement in Ordered Paragraphs 2-7, Capital Utilities, Inc. shall, pursuant to 4 CSR 240-2.040 and 4 CSR 240-2.080 file within five (5) days of the completion of each item a pleading with the Commission, to be filed within this docket, confirming successful completion of each item or, in the alternative, a pleading noting any further work which may be necessary and requesting any extension of time in which to comply."

Ordered Paragraph 8 reflects the requirement that a corporation be represented only by an attorney and that a non-attorney may not file pleadings, motions or submit other such filings on behalf of a corporation.

Businesses operating in corporate form are entitled to certain benefits that are denied to others. In addition to benefits, however, corporations also have certain restrictions placed upon them. One such restriction in Missouri is that a corporation may not represent itself in legal matters, but must act solely through licensed attorneys.

Reed v. Labor and Industrial Relations Commission, 789 S.W.2d 19, 21 (Mo.banc 1990) citing *Liberty Mut. Ins. Co. v. Jones*, 130 S.W.2d, 932, at 955.

The Commission, in its Order Scheduling Local Public Hearing, issued August 19th, 1994, noted "As a final procedural matter, the Commission finds that no attorney has entered an appearance on behalf of the Company." And, ". . .the Company is hereby advised that without the benefit of legal counsel it may not file any motions or pleadings in this docket." On October 18 and again on October 20, 1994, the president of Capital Utilities, Inc. has attempted to file pleadings in response to, and as required by, the Order Approving Tariff. On October 18, 1994, a letter was filed which states that it is being filed in accordance with the Commission order of October 14, 1994, and as required by Paragraph 5 of the order. On October 20, 1994, a letter was filed stating that it was being

filed in response to the order of October 14, 1994, and that it was in response to Paragraph 4 of the Commission's order. Pursuant to Commission regulations and the Commission order these responses constitute pleadings as set out in 4 CSR 240-2.080. Neither of these pleadings satisfies the requirement of the Commission's order of October 14, 1994, and both of these pleadings violate our regulations.

4 CSR 240-2.080(5) requires that all pleadings be signed by one (1) of the following methods: . . . if a firm, partnership, corporation or public utility, by the attorney representing it; (emphasis added). And, 4 CSR-240-2.040(3)(A) states that "any person who signs a pleading . . . by this act expressly represents that . . . he is a licensed attorney at law in Missouri for the state of his residence;"

The Commission finds that the letters filed by the president of Capital Utilities, Inc. on October 18 and again on October 20, 1994, do not comply with the Commission's order. Failure to comply with a Commission order is actionable pursuant to §386.570 RSMo, 1986. As the pleadings do not comply with the Order Approving Tariff and as they are improper pursuant to Missouri law the Commission finds the pleadings must be rejected.

Capital Utilities, Inc. is hereby directed to file its pleadings in compliance with Commission rules and the Order Approving Tariff. Capital may request leave to file out of time for those pleadings which do not comply with the deadlines set out in the Order Approving Tariff. The Commission does not have the authority to waive or suspend the legal requirements as to who may file pleadings on behalf of a corporation. However, the Commission is cognizant of the burden this procedure may place on a utility which is proceeding under the informal rate procedure found at 4 CSR 240-2.060(8). If Capital chooses to do so, it may, in the

alternative, submit the documents to the Commission staff for verification by the staff. The documents may then be incorporated into a staff report which shall be filed by staff herein. If the company chooses this option, the submission to the staff within five (5) days of completion of the respective work will suffice for the requirement that these pleadings be filed within five (5) days of the completion of the work.

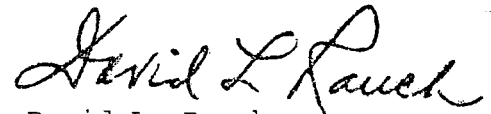
IT IS THEREFORE ORDERED:

1. That the letters which were submitted by Capital Utilities, Inc. on October 18, 1994 and October 20, 1994, are hereby rejected as improper pleadings.

2. That Capital Utilities, Inc. is ordered to comply with the Order Approving Tariff issued by this Commission on October 14, 1994, and shall file its pleadings either by its counsel or as provided for herein.

3. That this order shall become effective on the date hereof.

BY THE COMMISSION


David L. Rauch
Executive Secretary

(S E A L)

Mueller, Chm., McClure, Perkins,
Kincheloe and Crumpton, CC., Concur.