

BEFORE THE PUBLIC SERVICE COMMISSION  
FOR THE STATE OF MISSOURI

**FILED**

**FEB 7 2013**

JIMMIE E. SMALL,  
  
Complainant,

v.

Union Electric Company, d/b/a,  
Ameren Missouri  
Respondent.

Missouri Public  
Service Commission

Case file No. EC-2012-0050

S. Ct. Rule 51.05(e)  
APPLICATION FOR CHANGE OF JUDGE IN A CIVIL CASE

NOW COMES the complainant in the above captioned matter and pursuant to S. Ct. Rule 51.05(e) respectfully makes his application to the Honorable Commission for a Change Of Present Commission Judge.

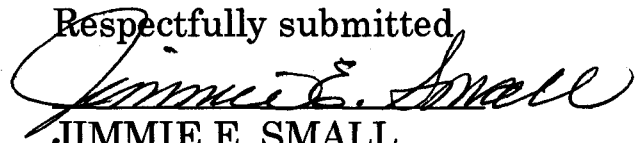
The present judge assigned to case No. EC-2012-0050 is Honorable Michael Bushmann.

Complainant Small [ADA pro se] herein has not filed or made a prior application for change of judge in any contested case under jurisdiction of the Missouri Public Service Commission. Prior cause No. RC-2011-0247; No. EC-2012-0050. The Missouri Public Service Commission is an entity.

No evidence has been presented on the merits, to any Commission judge in this continued contested case[s] proceeding.

WHEREFORE, the undersigned prays for such order under Rule 51.05 the Commission deems just to the above application for change.

Respectfully submitted



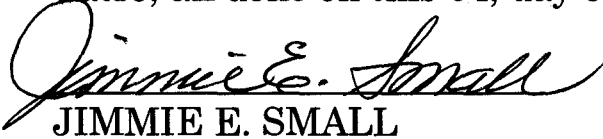
JIMMIE E. SMALL

606 West Hwy # 2,  
Milton, Iowa, 52570

S. Ct. Rule 43.01

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing Application for Change of Judge was filed with the [ MPSC] Commission Data Center, 200 Madison Street, Jefferson City, Mo. ; Mr. Mills, Office of Public Counsel and with Respondent Counsel Tatro, all done on this 04, day of January 2013.



JIMMIE E. SMALL

**51.05. Change of Judge—Procedure**

(a) A change of judge shall be ordered in any civil action upon the timely filing of a written application therefor by any party. For purposes of this Rule 51, motions to modify child custody, child support, or spousal maintenance filed pursuant to chapter 452, RSMo, shall not be deemed to be an independent civil action unless the judge designated to rule on the motion is not the same judge that ruled on the previous independent civil action. The application need not allege or prove any cause for such change of judge and need not be verified.

(b) The application must be filed within sixty days from service of process or thirty days from the designation of the trial judge, whichever time is longer. If the designation of the trial judge occurs less than thirty days before trial, the application must be filed prior to any appearance before the trial judge.

(c) A copy of the application and notice of the time when it will be presented to the court shall be served on all parties.

(d) Application for change of judge may be made by one or more parties in any of the following classes: (1) plaintiffs; (2) defendants; (3) third-party plaintiffs (where a separate trial has been ordered); (4) third-party defendants; or (5) intervenors. Each of the foregoing classes is limited to one change of judge, and any such change granted to one or more members of a class exhausts the right of all members of the class to a change of judge. However, no party shall be precluded from later requesting any change of judge for cause. Further, in condemnation cases involving multiple defendants, as to which separate trials are to be held, each separate trial to determine damages shall be treated as a separate case for purposes of change of judge.

(e) The judge promptly shall sustain a timely application for change of judge upon its presentation. The disqualified judge shall transfer the case to a judge stipulated to by the parties if the new judge agrees to take the case. If the case is not so transferred, the disqualified judge shall notify the presiding judge:

(1) If the presiding judge is not disqualified in the case, the presiding judge shall assign a judge of the circuit who is not disqualified or request this Court to transfer a judge; or

(2) If the presiding judge is disqualified in the case, a judge of the circuit shall be assigned in accordance with local court rules, so long as the local court rules do not permit the disqualified judge to make the assignment, or the presiding judge shall request this Court to transfer a judge.

(f) If after a change of judge has been granted the action shall be removed on application of another

party to some other county in the same circuit, the transferred judge shall continue as the judge therein.

(Adopted Nov. 15, 1974, eff. Sept. 1, 1975. Amended June 24, 1986, eff. Jan. 1, 1987; June 16, 1989, eff. Jan. 1, 1990; June 1, 1993, eff. Jan. 1, 1994; March 22, 1994, eff. Jan. 1, 1995; June 17, 1997, eff. Jan. 1, 1998; May 26, 1998, eff. Jan. 1, 1999.)

**Committee Notes—1973 and 1974 [Repealed]**

(Repealed June 1, 1993, effective Jan. 1, 1994.)

**51.06. Joint Application for Change of Venue and Change of Judge—When Required—Procedure**

(a) If a party requests and obtains either a change of venue or a change of judge, that party shall not be granted any additional change thereafter except for cause or under Rule 51.07. A party who desires both a change of venue and a change of judge must join and present both in a single application.

(b) Upon the timely presentation of an application requesting a change of venue and a change of judge and if no such application has previously been made by the requesting party or a party of the same class, the judge promptly shall sustain the application for change of judge and transfer the case in accordance with the procedures of Rule 51.05(e).

(c) The newly assigned judge shall determine the request for change of venue. If the change of venue is denied or if the change of venue is to another county in the same circuit, the newly assigned judge shall continue to be the judge in the civil action.

(Adopted Jan. 19, 1973, eff. Sept. 1, 1973. Amended June 1, 1993, eff. Jan. 1, 1994.)

**Comment Note—1973 [Repealed]**

(Repealed June 1, 1973, effective Jan. 1, 1994.)

**51.07. When Judge Disqualified Without Application**

If the judge is interested or related to any party or shall have been counsel in the civil action, or is recused for any reason, the judge promptly shall transfer the case to the presiding judge of the circuit for reassignment in accordance with the procedures of Rule 51.05(e).

(Adopted Jan. 19, 1973, eff. Sept. 1, 1973. Amended June 1, 1993, eff. Jan. 1, 1994.)

**51.08. Pleadings Need Not Be Completed Before Change of Venue is Ordered**

It is not necessary that all pleadings be filed or the issues joined before an order awarding a change of venue is entered.

(Adopted Nov. 15, 1974, eff. Sept. 1, 1975.)