
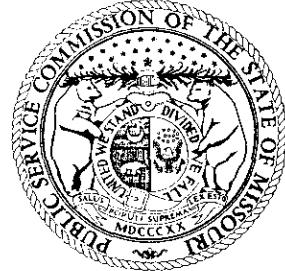


Notice of *Ex Parte* Contact

TO: Data Center
All Parties in Cases **TO-2006-0299** and **TC-2006-0068**

FROM: Commissioner Connie Murray 

DATE: July 10, 2006



On June 29, 2006, I received the attached email with attachments. The Commission is currently considering issues discussed in this document in cases **TO-2006-0299** and **TC-2006-0068** which are contested cases. In contested cases, the Commission is bound by the same *ex parte* rule as a court of law.

Although communications from members of the public and members of the legislature are always welcome, those communications must be made known to all parties to a contested case so that those parties have the opportunity to respond. According to the Commission's rules (4 CSR 240-4.020(8)), when a communication (either oral or written) occurs outside the hearing process, any member of the Commission or Regulatory Law Judge who received the communication shall prepare a written report concerning the communication and submit it to each member of the Commission and the parties to the case. The report shall identify the person(s) who participated in the *ex parte* communication, the circumstances which resulted in the communication, the substance of the communication, and the relationship of the communication to a particular matter at issue before the Commission.

Therefore, I submit this report pursuant to the rules cited above. This will ensure that any party to this case will have notice of the attached information and a full and fair opportunity to respond to the comments contained therein.

cc: Commissioners
Executive Director
Secretary/Chief Regulatory Law Judge
General Counsel

-----Original Message-----

From: John Lawton [<mailto:pscscandal@hotmail.com>]

Sent: Thursday, June 29, 2006 1:03 PM

To: Davis, Jeff; Gaw, Steve; Murray, Connie; Clayton, Robert; Appling, Linward (Lin); Henderson, Wess; Thompson, Kevin; Mills, Lewis; Steinhoff, Greg

Cc: charlie_shields@senate.mo.gov; michael_gibbons@senate.mo.gov; maida_coleman@senate.mo.gov

Subject: PSC Commissioner Misconduct

See the attached pdf file that details Commissioner misconduct.

- Advanced
- Description
- Fonts
- Security

Description

Title: Microsoft Word - Appling.doc
Author: David Woodsmall
Subject:
Keywords:
Created: 6/29/2006 12:49:33 PM
Modified: 6/29/2006 12:49:33 PM
Application: PScript5.dll Version 5.2

PDF Information

PDF Producer: Acrobat Distiller 6.0 (Windows)
PDF Version: 1.4 (Acrobat 5.x)
Path: C:\Documents and Settings\murra...y Internet Files\OLK2\Appling.pdf
File Size: 11.18 KB (11,445 Bytes)
Page Size: 8.5 x 11 in Number of Pages: 1
Tagged PDF: No Fast Web View: Yes

Help

OK

Cancel

I write this letter to bring to your attention a case of Commissioner misconduct. It is not my intention to cause anyone any public humiliation. Rather, I hope that this letter will result in the resignation of this Commissioner. By sending this email to all the individuals that are copied, I hope to eliminate any possibility that this matter will be swept under the rug.

As a member of the Commission's Staff this notification should fall within the protections of the Commission's whistleblower rule. Despite that, I fear possible repercussions and have resorted to this anonymous method of communication.

For the past several weeks rumors have floated around the Commission regarding a possible relationship between Commissioner Appling and Becky Powell of CenturyTel. Recognizing Ms. Powell's history of courting influence at the Commission: Dale Roberts followed by David Woodsmall, many of us did not find this rumor to be beyond the realm of possibility.

Recently, Staff members have noticed Commissioner Appling and Becky Powell together in public on multiple occasions. Based upon this confirmation I took it upon myself to drive by Ms. Powell's house several evenings and mornings in the last week. As the attached photographs indicate, on at least 4 separate mornings Commissioner Appling's vehicle was still parked in front of her house. Although this does not indicate the exact nature of their relationship, the fact that he has chosen to spend the night with an employee of a regulated utility certainly raises concerns of his ability to be fair and constitutes Commissioner misconduct.

There are numerous cases pending before the Commission in which CenturyTel is a party. Two weeks ago, Commissioner Appling was the lone "no" vote in a complaint by FullTel against CenturyTel. This matter is still pending as CenturyTel has filed another motion in that case. Last week Commissioner Appling sat in a hearing and asked questions regarding a USF request that CenturyTel was actively opposing. This week Commissioner Appling voted on a case between Socket and CenturyTel. While it is not certain that his relationship with Ms. Powell may have affected his conduct in these proceedings, it is clear that he is no longer seen as a fair and impartial decisionmaker.

Several years ago the Public Counsel took action against Commissioner Crumpton based upon his financial ties to SBC. While that matter could be resolved by Crumpton's sale of stock, this matter can not be so easily disposed of. Even if the relationship were to end today, the appearance of favoritism towards CenturyTel would always linger. As such, the only resolution is Commissioner Appling's resignation.

Commissioner Appling's misconduct goes beyond this single incident. Many on Staff are aware of the nature of the duties that Commissioner Appling had his former Executive Assistant performing. Most of these duties were jobs that are not related to his performance as a Commissioner. For example, Commissioner Appling had his Assistant performing duties related to his attempts to write and publicize his book. Certainly these types of personal moneymaking efforts should not be undertaken on the taxpayer's dime.

I ask that you take the necessary steps to see that this misconduct is ended immediately.

06/19/2006





06/24/2006



06/25/2006



06/28/2006