

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

In the Matter of a Proposed Rule Regarding	)	
Electric Utility Fuel and Purchased Power Cost	)	<b><u>Case No. EX-2006-0472</u></b>
Recovery Mechanism	)	

**APPLICATION FOR REHEARING**

COMES NOW the Office of the Public Counsel and for its Application for Rehearing states as follows:

1. On September 21, 2006 the Commission issued two final orders of rulemaking. Those orders are unjust, unreasonable, arbitrary and capricious, and unlawful for the following reasons.

2. Section 536.021.6(4) RSMo 2000 requires that the Commission provide in these orders:

A brief summary of the general nature and extent of comments submitted in support of or in opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with said rulemaking, together with a concise summary of the state agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule....

3. In its orders of rulemaking, the Commission failed to address any of the comments submitted by Public Counsel in written form and at the hearing on September 7, 2006.

4. In its order of rulemaking concerning 4 CSR 240-2.090, the Commission stated that "Some commenters believe these rules should ... include a requirement that the utility have an approved Chapter 22 resource plan in place prior to approval of any rate adjustment mechanism." In fact, no comments made such a proposal.

5. The orders are unlawful and unreasonable in that the Commission did not consider all of the comments. A transcript of the comments made at the hearing in Joplin, Missouri on September 6, 2006, has not been made a part of the Commission's record of this case, there is no indication that the Commissioners not present at the hearing have read a transcript of those comments, and there is no indication that the Commission as a body considered those comments.

6. The orders are unlawful and unreasonable in that the Commission has not made all of the comments available pursuant to Section 536.027 RSMo 2000. The comments submitted at the hearing in Joplin, Missouri on September 6, 2006, have not been listed in the Commission's docket entries for this case, and thus are not available for public inspection electronically. Furthermore, the Data Center of the Commission does not have a copy of the transcript of the hearing in Joplin, Missouri on September 6, 2006.

WHEREFORE, Public Counsel respectfully requests that the Commission grant rehearing of its September 21, 2006, Final Orders of Rulemaking.

Respectfully submitted,

OFFICE OF THE Public Counsel

**/s/ Lewis R. Mills, Jr.**

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### **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 29th day of September 2006:

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