

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

In the matter of Union Electric Company d/b/a)
AmerenUE for Authority to File Tariffs Increasing)
Rates for Electric Service Provided to Customers) Case No. ER-2010-0036
In the Company's Missouri Service Area)

NOTICE

Comes now, Janet E. Wheeler, Personal Advisor to Commissioner Terry M. Jarrett, and for this Notice in the above captioned matter states the following;

(1) On October 21, 2009 I received an electronic mail message (“e-mail”) from Diana Vuylsteke, Bryan Cave LLP, 211 North Broadway, St. Louis, Missouri 63102. Ms. Vuylsteke is legal counsel for the Missouri Industrial Energy Consumers (“MIEC”) in the above captioned case.¹ The subject of the e-mail was “ER-2010-0036 MIEC's first data request to Staff” and also included a PDF attachment.

(2) To the extent this communication could be construed as involving the subject of a pending filing or case Missouri law provides under Section 386.210.3(3)(a) that “*the person or party making the communication* shall no later than the next business day following the communication file a copy of the written communication in the official case file of the pending filing or case and serve it upon all parties of record.” (Emphasis added).

(3) Commission rules also impose upon an employee of the Commission a very specific obligation regarding *ex parte communications* which “apply from the time an on-the-

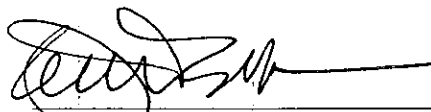
¹ Section 386.210(1) states that “[T]he commission may confer in person, or by correspondence, by attending conventions, or in any other way, with the members of the public, any public utility ... on any matter relating to the performance of its duties.” Here, the personal advisor to a commissioner did not initiate communication; rather an unsolicited e-mail message was instead delivered to an individual personal advisor to a commissioner by legal counsel for a party to a contested case.

record proceeding is set for hearing by the commission until the proceeding is terminated by final order of the commission.” 4 CSR 240-4.020(7).

(4) I am not a party to the above captioned matter; however I am an “employee of the commission.”

(5) 4 CSR 240-4.020(8), provides that any “employee of the commission ... who receives [a] communication shall immediately prepare a written report concerning the communication and submit it to the chairman and each member of the commission.” I have prepared a report in accordance with the specifications set forth in 4 CSR 240-4.020(8) and have distributed the report in compliance with the Commission rule contemporaneously with this filing. The rule’s requirements do not require filing in any particular docket, case or file.

(6) No Missouri law or Commission rule requires distribution of the communication through the Commission electronic filing and case information system (“EFIS”), and there is no prohibition on it either. It is questionable whether the prohibitions set out in Section 386.480 RSMo 2000 would permit such disclosure of this communication through EFIS. Because of the limits set out in Section 386.480 RSMo 2000, I am filing this notice only in the EFIS system for this matter and not the e-mail communication or report.



Janet E. Wheeler,
Personal Advisor to Commissioner Terry M. Jarrett

Filed this 27th day of October, 2009.