

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of a Review of the Missouri Public)
Service Commission's Standard of Conduct Rules)
and Conflicts of Interest Policies)

Case No. AO-2008-0192

NOTICE OF WORKSHOP DOCKET AND ROUNDTABLE DISCUSSION

Issue Date: December 13, 2007

Syllabus: The Chairman of the Missouri Public Service Commission, the Honorable Jeff Davis, upon his own motion and authority, shall open a workshop docket and set Roundtable Discussion to consider potential enhancement of the Commission's Standard of Conduct Rules and Conflicts of Interest policies. This order shall open the docket, direct notice and set a date and time for the Roundtable Discussion.

Background

Out of the desire to affirm public confidence in the execution of its statutory mandates to promote the public interest, ensure the safe and adequate provision of utility service and set just and reasonable rates for those services, the Chairman is opening this docket to elicit specific comments and suggestions regarding potential enhancements for Standard of Conduct Rules and Conflicts of Interest policies. The Chairman will utilize this forum to evaluate the Commission's current rules, policies, procedures and practices to determine if any modification or specific enhancement is required to prevent any impropriety, or even the appearance of impropriety, with regard to the actions of the Commission.

Notice

All interested persons, and especially groups and entities that routinely practice before the Commission are invited to submit comments and make presentations at the Roundtable. The Commission's Data Center shall electronically serve a copy of this order upon every Commission regulated utility, the Office of the Public Counsel and every member on the Commission's Listserve. The Commission's Public Information Officer shall post a press release on the Commission's web page announcing the opening of this docket and the date for the Roundtable Discussion.

Roundtable Discussion

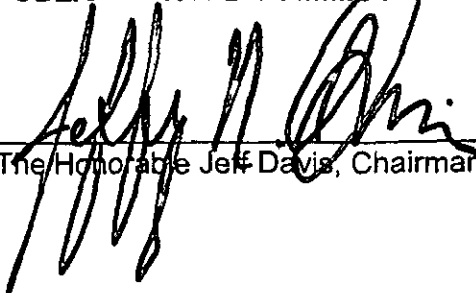
The Chairman will schedule a Roundtable Discussion to allow a proper forum for interested persons, groups and entities to provide specific comments and suggestions regarding potential enhancements for the Commission's Standard of Conduct rules, practices and procedures. The Roundtable Discussion shall be held on January 7, 2008. The Roundtable will be held in the Ballroom of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, beginning at 10:00 a.m. This Roundtable Discussion will be held in a building that meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this presentation, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the presentation. The Roundtable Discussion will be on the record, videotaped and Webcast.

In order to facilitate the orderly flow of information, those interested persons, groups and entities wishing to participate in the Roundtable are directed to file any prepared statements, comments, and presentation materials, as well as an estimated amount of time

necessary for any presentation, with the Commission under the docket number assigned to this workshop, i.e. AO-2008-0192. All prepared materials should include a summary section providing a concise description of the comments, suggestions, proposals, etc. All prepared materials should also be divided into the following categories: (1) actions the Commission can implement informally; (2) actions requiring formal Commission action, i.e. rulemaking; and (3) recommended statutory changes. All prepared statements, comments, proposals, etc. shall be filed with the Commission no later than January 3, 2008, to allow all participants an opportunity to review them prior to the Roundtable.

The Chairman will attach to this notice a current copy of its Standard of Conduct Chapter, relevant statutory provisions, and its internal "Representation of Independence" Policy for participants to review prior to the Roundtable. The Commission's Data Center is also notified that it shall electronically serve a copy of this notice upon every Commission regulated utility, the Office of the Public Counsel, and every member on the Commission's Listserve. Additionally, the Commission's Information Officer shall post a press release announcing the opening of this workshop case and the scheduling of the Roundtable Discussion on the Commission's web page.

**BY THE CHAIRMAN OF THE MISSOURI
PUBLIC SERVICE COMMISSION**



The Honorable Jeff Davis, Chairman

(SEAL)

Dated at Jefferson City, Missouri,
on this 13th day of December, 2007.

Rules of
Department of Economic
Development
Division 240—Public Service Commission
Chapter 4—Standards of Conduct

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Title 4—DEPARTMENT OF ECONOMIC DEVELOPMENT

Division 240—Public Service Commission

Chapter 4—Standards of Conduct

4 CSR 240-4.010 Gratuities

PURPOSE: The commission is obligated to promote the public interest and maintain public confidence in its integrity and impartiality. This rule prescribes measures to prohibit practices that possess a potential of wrongdoing.

(1) Each member of the commission and all of its employees are directed to read and comply with this rule and with Executive Order 92-04 dated January 31, 1992 following, which sets forth a standard of conduct for appointed officials and state employees. The commission shall be responsible for the enforcement of applicable statutes, the provisions of the Executive Order and this rule by the suspension or discharge of employees violating the same.

(2) All companies, corporations or individuals and any representative subject to the jurisdiction of the commission shall be prohibited from offering and all members and employees of the commission shall not accept, directly or indirectly, any gifts, meals, gratuities, goods, services or travel, regardless of value, except meals to a commissioner or an employee of the commission when given in connection with a speaking engagement or when the individual is a guest at a conference, convention or association meeting.

(3) All companies, corporations or individuals and any representative subject to the jurisdiction of this commission, and the members and employees of the commission shall immediately file with the chairman and each member of the commission, from and after March 18, 1976, report of any direct or indirect gratuities, meals, services, gifts or travel given or received and the identity and value of same and the purpose for which given or received, which is not permitted by this rule.

AUTHORITY: section 386.040, RSMo 1986. Original rule filed May 2, 1973, effective June 1, 1973. Amended: Filed Nov. 7, 1984, effective Feb. 11, 1985.*

**Original authority: 386.040, RSMo 1939.*

EXECUTIVE ORDER 92-04

WHEREAS, public confidence in the integrity of the government of the State of Missouri is of utmost importance; and

WHEREAS, the executive branch of state government must discharge its duties in an independent and impartial manner; and

WHEREAS, executive branch employees must treat the public and fellow employees with respect, courtesy, and dignity, and provide equal access to services for all members of the public; and

WHEREAS, executive branch employees' conduct not only must be within the letter of the law but must seek to fulfill the spirit and intent of the law; and

WHEREAS, executive branch employees must provide a full day's work for a full day's pay, giving to the performance of their duties their earnest effort and best thought; and

WHEREAS, executive branch employees must demonstrate the highest standards of personal integrity and honesty and must not realize undue personal gain from the performance of any official duties; and

WHEREAS, executive branch employees are responsible for enhancing the mission of their agencies; and

WHEREAS, a clear statement of the code of conduct which guides the executive branch is both an assurance to the citizens of Missouri and an aid to our steadfast efforts;

NOW, THEREFORE, I, JOHN ASHCROFT, GOVERNOR OF THE STATE OF MISSOURI, UNDER THE AUTHORITY VESTED IN ME UNDER THE CONSTITUTION AND THE LAWS OF THIS STATE, INCLUDING THE PROVISIONS OF SECTION 105.969 RSMO CUM. SUPP. 1992, DO HEREBY SET FORTH A CODE OF CONDUCT FOR EXECUTIVE BRANCH EMPLOYEES OF MISSOURI STATE GOVERNMENT (EXCEPTING THE EMPLOYEES OF THOSE ELECTED OFFICIALS WHO ARE TO ESTABLISH AN INTERNAL CODE OF CONDUCT FOR THEIR OFFICES):

CODE OF CONDUCT

1. Executive branch employees shall conduct the business of state government in a manner which inspires public confidence and trust.

A. Employees shall avoid any interest or activity which improperly influences, or gives the appearance of improperly influencing, the conduct of their official duties.

B. Employees shall act impartially and neither dispense nor accept special favors or privileges which might be construed to

improperly influence the performance of their official duties.

C. Employees shall not allow political participation or affiliation to improperly influence the performance of their duties to the public.

D. Employees shall not engage in business with state government, hold financial interests, or engage in outside employment when such actions are inconsistent with the conscientious performance of their official duties.

E. Employees shall not use or improperly possess an illegal controlled substance or alcohol in the workplace or during working hours.

F. Employees of the State are expected to comply with the statutes of Missouri at all times.

2. Executive branch employees shall conduct themselves in scrupulous compliance with applicable federal, state and local law.

A. Employees shall observe all conflict of interest provisions in law applicable to their agencies and positions of employment.

B. Employees shall adhere to all laws providing equal opportunity to all citizens.

C. Employees shall perform their responsibilities as they are specified in law or other authority establishing those responsibilities.

3. Financial compensation of state employment consists of only authorized salaries and fringe benefits.

A. Employees shall not use their public positions in a manner designed to create personal gain.

B. Employees shall not disclose confidential information gained by reason of their public positions, nor shall employees use such information for personal gain or benefit.

C. Employees shall not directly or indirectly attempt to influence agency decisions in matters relating to prospective employers with whom employment has been accepted or is being negotiated.

4. Executive branch employees owe the public the diligent application of their knowledge, skills and abilities for which they are compensated.

A. Employees shall not perform outside employment or other activities not appropriate during hours compensated for state employment and will use leave and other benefits provided by the State only for the purposes intended.

B. Employees shall carry out all lawful instructions of designated supervisors, and will report instructions not consistent with law to the proper authorities.

5. Equipment, material and supplies purchased with public funds are intended for the performance of public purposes only.

A. Employees shall use and maintain state equipment, materials and supplies in an efficient manner which will conserve future usefulness.

B. Employees shall use state equipment, materials and supplies solely for purposes related to the performance of state business.

6. The work of state government will be conducted with respect, concern and courtesy toward clients, co-workers and the general public.

A. Employees shall approach their duties with a positive attitude and constructively support open communication, dedication and compassion.

B. Employees shall conduct their duties with courtesy toward clients, co-workers, patients, inmates and the general public, recognizing the diverse background, characteristics and beliefs of all those with whom they conduct state business.

C. Employees shall not engage in any form of illegal harassment or discrimination in the workplace, including on the basis of race, color, religion, national origin, ancestry, sex, age or disability.

D. Employees, in connection with the performance of their duties, shall not seek sexual favors from a client, co-worker, patient, inmate or member of the public.

7. This code shall provide guidance to the officials and employees of the executive branch of Missouri state government in matters of employment related conduct.

A. When questions arise in the application of this code, the public interest will receive primary consideration in any resolution.

B. This code is not intended to fully prescribe the proper conduct of employees and the failure to prohibit an employee action in this code does not constitute approval of the action.

C. This code is intended as a supplement to the provisions in law which govern employee conduct, and in no instance does it decrease the requirements in law.

D. Agency heads are responsible for promoting and enforcing this code of conduct among the employees of their agencies in accordance with their respective agency procedures, and shall supplement it with additional provisions to meet the needs of their agencies.

E. This code is intended to provide guidance for employment related conduct and is not intended to create any right or benefit enforceable by law.

F. No state agency or appointing authority shall discharge, threaten or otherwise retaliate against an employee for reporting in good faith any violation of this code.

G. In applying this code to specific situations, the standard to be used is that of a reasonable person having knowledge of the pertinent circumstances.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, this 31st day of January, 1992.

(Signature) _____
GOVERNOR

ATTEST

(Signature) _____
SECRETARY OF STATE

4 CSR 240-4.020 Conduct During Proceedings

PURPOSE: The commission must insure that there is no question as to its impartiality in reaching a decision on the whole record developed during open hearings. This rule prohibits activities which would tend to exercise influence on the commission and which are not part of the record.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Any attorney who participates in any proceeding before the commission shall comply with the rules of the commission and shall adhere to the standards of ethical conduct required of attorneys before the courts of Missouri by the provisions of Civil Rule 4, Code of Professional Responsibility, particularly in the following respects:

(A) During the pendency of an administrative proceeding before the commission, an attorney or law firm associated with the attorney shall not make or participate in making a statement, other than a quotation from or reference to public records, that a reasonable person would expect to be disseminated by means of public communication if it is made

outside the official course of the proceeding and relates to any of the following:

1. Evidence regarding the occurrence of transaction involved;

2. The character, credibility or criminal record of a party, witness or prospective witness;

3. Physical evidence, the performance or results of any examinations or tests or the refusal or failure of a party to submit to examinations or tests;

4. His/her opinion as to the merits of the claims, defenses or positions of any interested person; and

5. Any other matter which is reasonably likely to interfere with a fair hearing.

(B) An attorney shall exercise reasonable care to prevent employees and associates from making an extra-record statement as s/he is prohibited from making; and

(C) These restrictions do not preclude an attorney from replying to charges of misconduct publicly made against him/her, or from participating in the proceedings of legislative, administrative or other investigative bodies.

(2) In all proceedings before the commission, no attorney shall communicate, or cause another to communicate, as to the merits of the cause with any commissioner or examiner before whom proceedings are pending except:

(A) In the course of official proceedings in the cause; and

(B) In writing directed to the secretary of the commission with copies served upon all other counsel of record and participants without intervention.

(3) No person who has served as a commissioner or as an employee of the commission, after termination of service or employment, shall appear before the commission in relation to any case, proceeding or application with respect to which s/he was directly involved and in which s/he personally participated or had substantial responsibility in during the period of service or employment with the commission.

(4) It is improper for any person interested in a case before the commission to attempt to sway the judgment of the commission by undertaking, directly or indirectly, outside the hearing process to bring pressure or influence to bear upon the commission, its staff or the presiding officer assigned to the proceeding.

(5) Requests for expeditious treatment of matters pending with the commission are

improper except when filed with the secretary and copies served upon all other parties.

(6) No member of the commission, presiding officer or employee of the commission shall invite or knowingly entertain any prohibited *ex parte* communication, or make any such communication to any party or counsel or agent of a party, or any other person who s/he has reason to know may transmit that communication to a party or party's agent.

(7) These prohibitions apply from the time an on-the-record proceeding is set for hearing by the commission until the proceeding is terminated by final order of the commission. An on-the-record proceeding means a proceeding where a hearing is set and to be decided solely upon the record made in a commission hearing.

(8) As *ex parte* communications (either oral or written) may occur inadvertently, any member of the commission, hearing examiner or employee of the commission who receives that communication shall immediately prepare a written report concerning the communication and submit it to the chairman and each member of the commission. The report shall identify the employee and 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.

AUTHORITY: section 386.410, RSMo 1986. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed April 26, 1976, effective Sept. 11, 1976.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

**MISSOURI PUBLIC SERVICE COMMISSION PERSONNEL
POLICIES****Subject:****REPRESENTATION OF INDEPENDENCE****Policy Section: C-12**

Issued: 2/3/92

Revised: 4/14/00

PURPOSE

In order to maintain the public trust, the Public Service Commission (PSC) and its employees must be independent, both "in fact" and "in appearance", of those entities regulated by the PSC and those parties appearing before the Commission in any PSC proceeding.

All PSC employees shall, at the time of first being sworn in and annually thereafter during the month of January, sign a Representation of Independence Statement.

Upon being assigned to any staff investigation or Commission proceeding, the employee shall notify the employee's supervisor, manager, and Division Director if any of the following statements apply:

1. The employee has a financial or personal interest in a utility or in any other entity that appears before the Commission;
2. The employee has knowledge of a family member who is employed by, or who has a personal or financial interest in, the utility or in any other party participating in the investigation or proceeding;
3. The employee has a non-business association with an employee serving in a policy-making capacity with the utility or with any other party participating in an investigation or proceeding.

Reference: Section 386.110 RSMo

Missouri Revised Statutes

Chapter 386 **Public Service Commission** **Section 386.200**

August 28, 2007

Conflicts of interest by commissioner or employees of commission prohibited--penalty for violation--violation by utility, penalty --violation by officer of utility, penalty.

386.200. 1. Every commissioner, the public counsel and every person employed or appointed to office, either by the commission or by the public counsel, is hereby forbidden and prohibited to solicit, suggest, request or recommend, directly or indirectly, to any public utility, corporation or person subject to the supervision of the commission, or to any officer, attorney, agent or employee thereof, the appointment of any person to any office, place, position or employment. And every such public utility, corporation and person, and every officer, attorney, agent and employee thereof, is hereby forbidden and prohibited to offer to any commissioner, the public counsel, or to any person employed by the commission or by the public counsel, any office, place, appointment or position, or to offer or give to any commissioner, to the public counsel, or to any person employed or appointed to office by the commission or by the public counsel, any free pass or transportation or any reduction in fare to which the public generally are not entitled or free carriage for property or any present, gift, entertainment or gratuity of any kind.

2. If any commissioner, the public counsel, or any person employed or appointed to office by the commission or the public counsel, shall violate any provision of this section he shall be removed from the office held by him. Every commissioner, the public counsel, and every person employed or appointed to office by the commission, or by the public counsel, shall be and be deemed to be a public officer.

3. If any public utility violates any provision of this section, it shall be liable to the state of Missouri in a civil action in any court of competent jurisdiction for the assessment of a civil penalty not to exceed twenty thousand dollars. The penalty provided in this subsection shall be in addition to any other penalty provided for violation of the provisions of this chapter. The attorney general shall bring the action authorized in this subsection. The action may be brought in any county where the defendant public utility's principal place of business is located or where the violation occurred, or where the public utility's registered agent is located. The penalty assessed under the provisions of this subsection shall be paid into the state treasury to the credit of general revenue.

4. Any officer, agent or employee of any public utility who violates any provision of this section is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

(RSMo 1939 § 5593, A.L. 1977 H.B. 42 & 157)

Prior revisions: 1929 § 5137; 1919 § 10426

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Missouri General Assembly

Missouri Revised Statutes

Chapter 386 Public Service Commission Section 386.210

August 28, 2007

Conferences, limitation on communications--cooperative agreements, investigations authorized-- funds may be received and distributed, how.

386.210. 1. The 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 or similar commission of this and other states and the United States of America, or any official, agency or instrumentality thereof, on any matter relating to the performance of its duties.

2. Such communications may address any issue that at the time of such communication is not the subject of a case that has been filed with the commission.

3. Such communications may also address substantive or procedural matters that are the subject of a pending filing or case in which no evidentiary hearing has been scheduled, provided that the communication:

1) Is made at a public agenda meeting of the commission where such matter has been posted in advance as an item for discussion or decision;

2) Is made at a forum where representatives of the public utility affected thereby, the office of public counsel, and any other party to the case are present; or

3) If made outside such agenda meeting or forum, is subsequently disclosed to the public utility, the office of the public counsel, and any other party to the case in accordance with the following procedure:

a) If the communication is written, 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;

b) If the communication is oral, the party making the oral communication shall no later than the next business day following the communication file a memorandum in the official case file of the pending case disclosing the communication and serve such memorandum on all parties of record. The memorandum must contain a summary of the substance of the communication and not merely a listing of the subjects covered.

4. Nothing in this section or any other provision of law shall be construed as imposing any limitation on the free exchange of ideas, views, and information between any person and the commission or any commissioner, provided that such communications relate to matters of general regulatory policy and do not address the merits of the specific facts, evidence, claims, or positions presented or taken in a pending case unless such communications comply with the provisions of subsection 3 of this section.

5. The commission and any commissioner may also advise any member of the general assembly or other governmental official of the issues or factual allegations that are the subject of a pending case, provided that the commission or commissioner does not express an opinion as to the merits of such issues or allegations, and may discuss in a public agenda meeting with parties to a case in which an evidentiary hearing has been scheduled, any procedural matter in such

case or any matter relating to a unanimous stipulation or agreement resolving all of the issues in such case.

6. The commission may enter into and establish fair and equitable cooperative agreements or contracts with or act as an agent or licensee for the United States of America, or any official, agency or instrumentality thereof, or any public utility or similar commission of other states, that are proper, expedient, fair and equitable and in the interest of the state of Missouri and the citizens thereof, for the purpose of carrying out its duties pursuant to section 386.250 as limited and supplemented by section 386.030 and to that end the commission may receive and disburse any contributions, grants or other financial assistance as a result of or pursuant to such agreements or contracts. Any contributions, grants or other financial assistance so received shall be deposited in the public service commission utility fund or the state highway commission fund depending upon the purposes for which they are received.

7. The commission may make joint investigations, hold joint hearings within or without the state, and issue joint or concurrent orders in conjunction or concurrence with any railroad, public utility or similar commission, of other states or the United States of America, or any official, agency or any instrumentality thereof, except that in the holding of such investigations or hearings, or in the making of such orders, the commission shall function under agreements or contracts between states or under the concurrent power of states to regulate interstate commerce, or as an agent of the United States of America, or any official, agency or instrumentality thereof, or otherwise.

(RSMo 1939 § 5701, A.L. 1971 H.B. 381, A.L. 1996 S.B. 780, A.L. 2003 H.B. 208)

Prior revisions: 1929 § 5245; 1919 § 10533

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Missouri General Assembly