

**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	)	<u><b>Case No. AO-2008-0192</b></u>
Conduct Rules and Conflicts of Interest Statute	)	

**PUBLIC COUNSEL’S RESPONSE TO SUPPLEMENTAL COMMENTS OF THE  
MISSOURI ENERGY DEVELOPMENT ASSOCIATION**

COMES NOW the Office of the Public Counsel and for its Response to Supplemental Comments of the Missouri Energy Development Association states as follows:

1. Public Counsel will not burden the record in this case by replying to all of the exaggerated responses filed by representatives of utilities and the Commission. But Public Counsel must address on particularly egregious false accusation in the Supplemental Comments of the Missouri Energy Development Association (MEDA).

2. At the roundtable meeting on January 7, Chairman Davis asked that the specific portions of the Slavin<sup>1</sup> case that refer to a PSC Commissioner’s compliance with the standards of judicial conduct be filed.

3. In response to this request, Public Counsel filed a very short pleading, mainly consisting of the following paragraph:

There are two such passages: “However, the courts in this state have held officials occupying quasi-judicial positions to **the same high standard as apply to judicial officers** by insisting that such officials be free of any interest in the matter to be considered by them” and “It is clear from King's Lake, Forest Hills Utility Company, and American General Insurance that **the same standards and rules apply to quasi-judicial officers** as to judicial officers.”<sup>2</sup> The Slavin court could have limited its decision by simply saying that a quasi-judicial officer shall not participate in a case in which she has a specific interest, but it did not. The

---

<sup>1</sup> Union Electric Co. v. Public Service Com., 591 S.W.2d 134 (Mo. Ct. App. 1979)

<sup>2</sup> Ibid., at 137 and 139.

Slavin decision speaks much more broadly of applying the “same [judicial] standards and rules” to PSC Commissioners as are applied to judges.

4. In its supplemental comments, MEDA claims that Public Counsel “inserted a word [judicial] that does not appear in *Slavin*...” This is a patently false accusation. Public Counsel quoted *verbatim* two passages from Slavin that use the word “judicial.” Indeed, the word “judicial” appears no fewer than five times<sup>3</sup> in Slavin, and twice in the verbatim quotes provided in Public Counsel’s response to Chairman Davis’ request. In the final sentence of the above-noted paragraph of Public Counsel’s response, a short portion of one of the quotes was edited to fit within that sentence by **moving** the word “judicial” – which appears near the end of the quote – to an earlier spot in the insertion. This editing was done simply so the quote would fit in the sentence and does not alter the sense of the quote. MEDA can disagree with Public Counsel’s interpretation of the Slavin case, but it cannot credibly claim that Public Counsel inserted a word that does not appear in the case.

WHEREFORE, Public Counsel respectfully submits this Response to Supplemental Comments of the Missouri Energy Development Association.

Respectfully submitted,

OFFICE OF THE Public Counsel

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

By: \_\_\_\_\_  
Lewis R. Mills, Jr. (#35275)  
Public Counsel  
P O Box 2230  
Jefferson City, MO 65102  
(573) 751-1304  
(573) 751-5562 FAX  
lewis.mills@ded.mo.gov

---

<sup>3</sup> More if one considers the references to “quasi-judicial.”

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 6<sup>th</sup> day of February 2008:

General Counsel Office  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
PO Box 360  
Jefferson City MO 65102  
GenCounsel@psc.mo.gov

Kevin Thompson  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
PO Box 360  
Jefferson City MO 65102  
Kevin.Thompson@psc.mo.gov

Julie L Noonan  
Julie L Noonan  
23719 S. Lucille Lane  
Peculiar MO 64078  
Julie.L.Noonan@sprint.com

Paul A Boudreau  
Missouri Energy Development Association  
312 East Capitol Avenue  
PO Box 456  
Jefferson City MO 65102  
PaulB@brydonlaw.com

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

---