



To: Joe Huddleston, Executive Director
From: Shirley Sicilian, General Counsel
Date: September 6, 2012
Subject: **Report regarding Complaint Filed July 26, 2012, pursuant to Commission Public Participation Policy §24**

Introduction

On July 26, 2012, you received a complaint from Mr. Terry Frederick, Director-State & Local Corporate Tax for Sprint, alleging that the Commission had violated §8 of its Public Participation Policy by failing to give 10 days advance public notice for a meeting of the Commission's Strategic Planning Compliance Working Team. As required by the Policy, you immediately circulated Mr. Frederick's complaint to the Commission and requested that I conduct an investigation and prepare this report, including findings and any recommendations for remedial action.

Note that our Policy requires that this report be forwarded to the Commission membership for discussion and possible action at the next Commission or Executive Committee meeting.

Findings

1. On July 24, 2012, the Commission issued notice of a Strategic Planning Compliance Working Team meeting, scheduled for August 2 and 3, 2012.¹ The notice was issued at mid-day on July 24th for a meeting beginning at mid-day on August 2nd.
2. On July 26, Mr. Frederick filed a complaint with Mr. Huddleston pursuant to Commission Public Participation Policy §24,² alleging that the Commission's notice of July 24, 2012 failed to give 10 days advance notice of the meeting.³
3. On July 26, 2012, Mr. Huddleston forwarded a copy of the complaint to each member of the Commission and requested the Commission's General Counsel investigate and prepare a report, including findings and any recommendation for remedial action.
4. Commission Public Participation Policy §8 requires that "notice shall be given at least 10 days in advance of [a] meeting [of the Commission or a Commission body]."⁴ The policy does not further describe how the 10 day period is to be calculated.

¹ A copy of the notice is attached.

² <http://www.mtc.gov/About.aspx?id=136>

³ A copy of Mr. Frederick's complaint is attached.

⁴ <http://www.mtc.gov/About.aspx?id=118>

5. If we count the part-day on which notice is issued, then the notice was issued 10 days in advance of the meeting. However, if we don't count the part-day on which the notice is issued, then the notice was issued only 9 days in advance of the meeting. Furthermore, if we are to count only business days, then notice was issued only 7 days in advance of the meeting. The Commission has generally followed a policy of counting "calendar days;" that is, not counting the part-day on which notice is issued, but counting both business and non-business days.
6. **Conclusion:** The notice complies with §8 if the day of notice is counted. But the notice does not comply with §8 if either (1) the day of notice is not counted, or (2) only business days are counted.

Recommendation

Section 8 of the Policy should be amended to clarify how the 10 day period is to be calculated. I recommend adopting the Commission's general practice of counting "calendar days." This practice counts both business and non-business days; it does not count the part-day on which the notice is issued.

(a) The Commission shall provide notice of a meeting of the Commission or a Commission body to any person who requests such notice in writing. Notice shall be given at least 10 **calendar** days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. **In counting the 10 calendar day notice period, the calendar day after the day that the notice is issued shall be considered calendar day 1, and the meeting may then be held at any time on or after calendar day 10.** The notice requirement shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public, provided, however, that no action is taken by the Commission or the Commission body at the same meeting on matters brought before the Commission or the Commission body by members of the public.

From: [Gregory S. Matson](#)
To: [Public HRG/MTG Notice-Public](#)
Cc: ["elizharchenko@comcast.net"](mailto:elizharchenko@comcast.net)
Subject: Notice of MTC Meeting: Strategic Planning Compliance Goal Work Team, August 2-3, 2012
Date: Tuesday, July 24, 2012 12:35:12 PM

The Commission's Strategic Planning Steering Committee established a work team to address the goal area of compliance. This team will be meeting on Thursday, August 2nd, and Friday, August 3rd, in Grand Rapids, Michigan. The agenda appears below this message, and will be made available on the Strategic Planning Steering Committee's webpage at <http://www.mtc.gov/Executive.aspx?id=5173> (any materials for this meeting will be made available on this same webpage).

Gregory S. Matson

Deputy Executive Director

Multistate Tax Commission

PUBLIC NOTICE & AGENDA

Strategic Planning Compliance Goal Work Team Session

Amway Grand Plaza

187 Monroe Ave. NW

Grand Rapids, Michigan

Thursday, August 2, 2012

1:00 to 5:00 p.m. Eastern Time

Friday, August 3, 2012

8:30 a.m. to Noon, Eastern Time

There will be no teleconference participation for this meeting.

- I. Welcome and Introductions
- II. Public Comment Period

In accordance with its Public Participation Policy, the Commission provides this

opportunity for members of the public to address the Commission directly on this agenda. The Chair may also provide for public comment before or during the committees discussion of specific agenda items.

III. Discussion of Compliance Goal

A. Guidelines for the Work Team

B. MTC Strategic Planning Background & Compliance Goal Development

C. Brainstorming

D. Prioritization & Development of Options

IV. Adjournment

From: [Shirley K. Sicilian](#)
To: [Shirley K. Sicilian \(SSicilian@mtc.gov\)](mailto:SSicilian@mtc.gov)
Subject: FW: Notice of MTC Meeting: Strategic Planning Compliance Goal Work Team, August 2-3, 2012
Date: Thursday, September 06, 2012 11:27:20 AM

From: Frederick, Terry D [FIN] [<mailto:Terry.Frederick@sprint.com>]
Sent: Thursday, July 26, 2012 12:40 AM
To: Gregory S. Matson; Joe Huddleston; cfong@state.nd.us
Cc: Todd Lard; Diann Smith; Douglas Lindholm; Stephen Kranz
Subject: RE: Notice of MTC Meeting: Strategic Planning Compliance Goal Work Team, August 2-3, 2012

Joe-

It is disappointing that the MTC will not make teleconferencing available for the meetings on August 2nd and 3rd. Based on the discussion on yesterday's call, it is obvious that State participants were given advance notice of the meeting to make travel plans. Not making the meeting readily available to the public clearly does not support one of the new values established by the Strategic Planning Committee shown below when the MTC called this meeting without the requisite notice in a location other than Washington DC where it cannot be readily attended by members of the public and does not provide a teleconference option. If you are concerned about the ability of participants on the phone to participate effectively, you could provide a listen-only option.

Section 8 of the PPP clearly states the notice requirement to be 10 days in advance of the meeting. The day of the meeting is not a day in advance of the meeting. The MTC has missed notice by a day, so having the meeting on August 2nd would be in violation of your policy. Since you have concluded that this meeting will not have a teleconference option, on behalf of the public stakeholders harmed by this violation, please accept this email as a formal complaint pursuant to Section 24 of the Public Participation Policy for failure to follow the notice requirement found in Section 8 of the Policy. We request that the notification required by Section 24 to the Commission member states occur prior to the August 2nd meeting, so they can make a determination whether to send any state employees to the improperly noticed meeting.

Please feel free to give me a call if you would like to discuss.

Respectfully,
Terry Frederick

MULTISTATE TAX COMMISSION – MISSION, VALUES, VISION AND GOALS 2012

VALUES:

Value Inclusivity

- Invite the participation of all stakeholders

- Act openly and transparently

Section 8. Notice of meeting

- (a) The Commission shall provide notice of a meeting of the Commission or a Commission body to any person who requests such notice in writing. **Notice shall be given at least 10 days in advance of the meeting,** and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The notice requirement shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public, provided, however, that no action is taken by the Commission or the Commission body at the same meeting on matters brought before the Commission or the Commission body by members of the public.

Section 24.

Complaints regarding public participation policy

Complaints involving alleged failures of the Commission or a Commission body to adhere to the policies expressed herein shall be directed to the Executive Director of the Commission. Upon receipt of any complaint, the Executive Director shall immediately forward a copy of the Complaint to each member of the Commission. Thereafter, the Executive Director, or the General Counsel, of the Commission shall conduct an investigation of the complaint and prepare a report of findings and recommendations for any remedial steps which may be necessary to implement the letter and spirit of this policy. A copy of this report shall be forwarded to each member of the Commission within 45 days of receipt of the complaint and the matter shall be scheduled for discussion and possible action at the next meeting of the Commission or the Executive Committee, whichever occurs first.

Terry Frederick

Director-State & Local Corporate Tax

Sprint

6500 Sprint Parkway MS: HL-5A803

Overland Park, KS 66251

V (913) 315-5820

F (913) 523-0621

Terry.Frederick@Sprint.com