

## Koenigsfeld, Christine

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**From:** Dale, Cully  
**Sent:** Wednesday, August 01, 2007 11:31 AM  
**To:** Koenigsfeld, Christine  
**Subject:** FW: WR-2007-0216 - Response to Request fo Discovery Conference

-----Original Message-----

From: Thompson, Kevin  
Sent: Wednesday, August 01, 2007 10:38 AM  
To: 'stucon@fcplaw.com'; Dale, Cully  
Cc: bfrancis@armstrongteasdale.com; 'Bill Steinmeier'; christina.baker@ded.mo.gov; clumley@lawfirmemail.com; dadams@brydonlaw.com; dcooper@brydonlaw.com; 'Diana Vuylsteke'; dwoodsmall@fcplaw.com; gsayad@armstrongteasdale.com; 'Jane Smith'; jfinnegan@fcplaw.com; jfischerpc@AOL.com; jlevey@armstrongteasdale.com; klowry@armstrongteasdale.com; lcurtis@lawfirmemail.com; Mills, Lewis; llangeneckert@stolarlaw.com; lwdority@sprintmail.com; 'Mark Compley'; 'Mary Ann Young'; mellinger@blitzbardgett.com; mevans@hstly.com; opcservice@ded.mo.gov; saschroder@hstly.com; Began, Ed; Cassidy, John; Gilbert, Guy; Grissum, Roberta; Hagemeyer, Jeremy; Johansen, Dale; Kremer, Lisa; Macias, Gregory; Mankin, Suzie; Merciel, James; Meyer, Greg; Murray, David; Rackers, Steve; Russo, Jim; Schallenberg, Bob; Wood, Warren  
Subject: RE: WR-2007-0216 - Response to Request fo Discovery Conference

Judge--

Our beef is with the non-answer to 285, not 284. Mr Conrad is correct as to 284, it is 285 that he has not answered.

So far as Staff is concerned, a discovery conference is necessary.

Thanks.

Kevin A. Thompson  
General Counsel  
Missouri Public Service Commission

-----Original Message-----

From: Stu Conrad [mailto:stucon@fcplaw.com]  
Sent: Wednesday, August 01, 2007 9:09 AM  
To: Dale, Cully  
Cc: bfrancis@armstrongteasdale.com; 'Bill Steinmeier'; christina.baker@ded.mo.gov; clumley@lawfirmemail.com; dadams@brydonlaw.com; dcooper@brydonlaw.com; 'Diana Vuylsteke'; dwoodsmall@fcplaw.com; gsayad@armstrongteasdale.com; 'Jane Smith'; jfinnegan@fcplaw.com; jfischerpc@AOL.com; jlevey@armstrongteasdale.com; klowry@armstrongteasdale.com; lcurtis@lawfirmemail.com; Mills, Lewis; llangeneckert@stolarlaw.com; lwdority@sprintmail.com; 'Mark Compley'; 'Mary Ann Young'; mellinger@blitzbardgett.com; mevans@hstly.com; opcservice@ded.mo.gov; saschroder@hstly.com; stucon@fcplaw.com; Thompson, Kevin; Began, Ed; Cassidy, John; Gilbert, Guy; Grissum, Roberta; Hagemeyer, Jeremy; Johansen, Dale; Kremer, Lisa; Macias, Gregory; Mankin, Suzie; Merciel, James; Meyer, Greg; Murray, David; Rackers, Steve; Russo, Jim; Schallenberg, Bob; Wood, Warren  
Subject: WR-2007-0216 - Response to Request fo Discovery Conference

Judge Dale: There is, first of all, no need for a discovery conference on Mr. Thompson's request. As indicated by the attachments to this email, Staff counsel advised us of what he asserted was an overlooked DR yesterday afternoon. Because I was in transit back to Kansas City, Mr. Woodsmall responded so advising Staff Counsel advising that we would check on it tomorrow, that being today. Apparently, flushed with his combat with AmerenUE attorneys, Staff Counsel set out a vituperative e-mail this morning at 7:20, even before I got to my office and asking that I be "reminded of my obligations."

Well, it appears that Staff counsel has, again, engaged in "ready, fire, aim." Upon investigation, we have been advised by Mr. Johnstone that the the subject DR has been responded to and addressed by Mr. Johnstone, the subject of the DR.

Mr. Russo, and Mr. Johnstone, along with Ms. Meisenheimer from OPC, have engaged in a number of collaborative meetings, telephone conferences, and efforts to resolve and clarify their respective issues, the documents requested have been provided to Mr. Russo several weeks ago, and, in addition, Mr. Johnstone, through that collaboration, has responded to not only Mr. Russo's inquiries and discussed these matters with Mr. Russo, apparently to Mr. Russo's satisfaction at the time. Those discussions occurred several weeks ago and have been continuing thereafter as the individuals concerned had questions one of another, in some instances as recently as yesterday. Accordingly no discovery conference is needed on this DR as the information sought has been supplied, in spades.

That said, and because Staff Counsel has, however, requested a discovery conference, it perhaps will create an opportunity for Staff counsel to explain to the judge why AGP's Data Requests Nos. 10-17 that were transmitted to Staff Counsel for distribution to appropriate Staff personnel on June 29 remain unanswered and why Mr. Rackers acknowledged that he had not received another set of AGP Data Requests to Staff, Nos. 64-80, that were transmitted to Staff Counsel on July 20 for similar distribution, to appropriate Staff personnel. Again reference the multi-page attachment labelled "Response Packet." Perhaps that discovery conference can explore why Staff Counsel, as acknowledged by Mr. Rackers, and to borrow a phrase, "did not bother," to transmit to the responsible members of Staff these several additional data requests from AGP and why it was necessary for AGP Counsel to retransmit the DRs directly to Mr.

Rackers in order to even get them to the appropriate Staff personnel. Perhaps the proposed discovery conference would, in fact, be useful as I, too, am busy, heading to Des Moines this afternoon for a meeting there on Thursday and "[g]iven the scant time remaining until the hearing in this case and my other pressing obligations, I do not have the time to cajole [Staff Counsel] into doing what he is in any event obligated to do."

We would be happy to attend a discovery conference that focuses on Staff Counsel's obligations and failures to transmit properly-tendered DRs to Staff personnel, but we would simply prefer to have responses to our yet unanswered data requests and timely responses to any that may yet be tendered to Staff. After all, to again borrow a phrase from Mr. Thompson's earlier pleadings, AGP "is also entitled to due process." Given that we are more interested in obtaining the needed data rather than picking a fight, and given that we apparently cannot depend on Staff Counsel to distribute data requests directed to Staff, we have been trying to work these DRs through to the appropriate Staff personnel ourselves. But perhaps a discovery conference would, in fact, provide an opportunity to expore the difference in approach employed. I am always willing to learn about my obligations; I'm not all all certain, however, that based on the track record here, Mr. Thompson is, in fact, the example that I should seek to emulate.

As far as scheduling goes, my time is already spoken for on Friday afternoon. I cannot speak for Mr. Woodsmall.

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