

Staff of the Missouri Public Service
Commission,

Complainant,

vs.

Kansas City Power & Light Company

And

KCP&L Greater Missouri Operations
Company,

Respondents.

STAFF'S RESPONSE IN OPPOSITION TO RESPONDENTS' MOTION TO CONTINUE

1. Staff filed its *Complaint* against Respondents on May 20, 2015, seeking penalties and other relief from Respondents for the violation of a statute and two Commission rules arising out of Respondents' practice of transferring certain customer calls and customer information to Allconnect, for a fee, without the prior authorization either of this Commission or the affected customers.

2. Following Respondents' *Answer* on June 22, 2015, a prehearing conference was held and a *Proposed Procedural Schedule* was filed, which the Commission adopted on July 28, 2015. The *Order Adopting Procedural Schedule* provides for a hearing beginning on January 19, 2016.

3. Staff filed its *Motion for Summary Determination* with supporting *Suggestions* on October 6, 2015. According to Rule 4 CSR 240-2.117(1)(C), the non-moving party gets thirty days to respond unless, under Rule 4 CSR 240-2.117(1)(D), the non-moving party seeks and is granted "a reasonable time to allow an opposing party to conduct such discovery as is necessary to permit a response to the motion for summary determination."

4. On October 9, 2016, Respondents filed their *Motion to Continue the Motion for Summary Determination*.

5. First of all, the time sought by Respondents is by no means reasonable. The *Motion to Continue* states: "it is conceivable and perhaps likely that it will not be possible to conclude that there are no material issues of disputed fact until the Staff's Surrebuttal Testimony has been filed, and the responses to any discovery related thereto have been reviewed. In addition, the Staff's proposed List of Issues will also be determinative if there are any factual matters in dispute between the Company and Staff." The *List of Issues* is not due until January 6, 2016.¹ There is no administrative economy to be realized from summary determination if the parties must nonetheless continue to prepare and file testimony and other hearing requisites until less than two weeks before the hearing is set to start.

¹ *Order Adopting Procedural Schedule*, p. 2.

6. Second, Respondents do not get the requested continuance under Rule 4 CSR 240-2.117(1)(D) except “[f]or good cause shown.” So far, Respondents have made no good cause showing whatsoever; they have merely filed a motion containing conclusory assertions. The reality is that they cannot show good cause because the facts are not within Staff’s exclusive control, therefore requiring discovery, but are rather in Respondents’ control.

7. Before it grants the requested continuance, the Commission should require Respondents to detail every fact they believe they are unable to determine whether or not they contest and specify exactly how they intend to proceed to achieve certainty.

8. Or, the Commission could simply deny their meritless motion.

WHEREFORE, having shown that Respondents are not entitled to the continuance they seek, Staff prays that the Commission will deny the same; and grants such other and further relief as the Commission deems just in the circumstances.

Respectfully submitted,

/s/ Kevin A. Thompson

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, hand delivery, of First Class United States Mail, postage prepaid, on all parties of record on this 13th day of October, 2015.

/s/ Kevin A. Thompson