

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 11th day
of March, 2008.

In the Matter of the Application of Wasatch)
Investments, LC, for Change of Electric Supplier.) **Case No. EO-2008-0031**

ORDER DISMISSING APPLICATION

Issue Date: March 11, 2008

Effective Date: March 21, 2008

On August 1, 2007, Wasatch Investments, LC, (Wasatch) filed a verified application for a change of electric supplier from Union Electric Company, d/b/a AmerenUE, to Cuivre River Electric. The change of supplier request was for electric service supplied to a business to be operated by Mr. Ronald L. Fruend at 1665 Kemmar Court, O'Fallon, Missouri 63145.

Wasatch's application was initially deficient in that the party signing the application, Ronald L. Fruend, was not a Missouri-licensed attorney as required by Commission Rule 4 CSR 240-2.040(5). To redress this deficiency, Jeffrey M. Witt, a Missouri-licensed attorney, entered his appearance on behalf of Wasatch. Mr. Witt further acknowledged all filings previously made by Wasatch.

On January 29, 2008, a prehearing conference was held. All parties appeared at the conference. Also on January 29, 2008, following the prehearing conference, the Commission issued an Order Directing Filing, Directing Inclusion of Specific Issues in Briefs

and Setting a Deadline for Requests to be Excused from any Scheduled Evidentiary Hearing.

On February 13, 2008, the service copy of the Commission's January 29, 2008 order sent to Mr. Jeffrey Witt, legal counsel representing Wasatch Investments, LC, was returned as undeliverable for failure to have a forwarding address on file. The regulatory law judge made several attempts to contact Mr. Witt by phone at the phone number included in his entry and using alternate phone numbers for Mr. Witt provided by other parties to this case. Those numbers were either disconnected or did not reach Mr. Witt.

On February 20, 2008, the Commission issued an Order Directing Filing of Valid Service Address ordering Wasatch to file either a valid service address for its legal counsel, Mr. Jeffrey Witt, or an entry of appearance for alternate legal counsel on or before March 3, 2008. The order further advised Wasatch that failure to comply could result in Wasatch's application being dismissed. Due to previous difficulty serving Wasatch's counsel, the Commission's data center sent a copy of the February 20th order to Wasatch's business address, as well as the legal counsel for all parties of record.

On March 4, 2008, the service copy of the Commission's January 29, 2008 order sent to Mr. Jeffrey Witt was also returned as undeliverable for failure to have a forwarding address on file. As of March 11, 2008, Wasatch has not filed a valid service address for Mr. Jeffrey Witt, or an entry of appearance for alternate legal counsel.

Commission Rule 4 CSR 240-2.116(3) states that a party may be dismissed from a case for failure to comply with any order issued by the Commission. Wasatch failed to comply with the Commission's February 20, 2008 order. Commission Rule 4 CSR 240-2.116(4) states that a case may be dismissed for good cause found by the Commis-

sion after a minimum of ten (10) days notice to all parties involved. As a limited liability company, Commission Rule 4 CSR 240-2.040(5) and Missouri law¹ require that Wasatch be represented by an attorney licensed to practice law in this state in proceedings before the Commission.

Because Wasatch, as a limited liability company, cannot represent itself before the Commission, Wasatch's failure to comply with the Commission's February 20, 2008 order has made further adjudication of this case impossible. The Commission finds that Wasatch should be dismissed as a party to this case and further finds that good cause exists to dismiss Wasatch's application.

IT IS ORDERED THAT:

1. Wasatch Investments, LC, is dismissed as a party to Commission Case No. EO-2008-0031.
2. The Application of Wasatch Investments, LC, for Change of Electric Supplier filed on August 1, 2007, is dismissed without prejudice.

¹ *Stamatiou v. El Greco Studios, Inc.*, 935 S.W.2d 701, 702, and *See Reed v. Labor and Industrial Relations Commission*, 789 S.W.2d 19, 21 (Mo. Banc 1990); *Property Exchange & Sales, Inc. v. Bozarth*, 778 S.W.2d 1, 2 (Mo. App. 1989); and *Credit Card Corporation v. Jackson County Water Company*, 688 S.W.2d 809, 811 (Mo. App. 1985).

3. This order shall become effective on March 21, 2008.
4. This case shall close on March 22, 2008.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a faint, illegible background.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Clayton,
Appling, and Jarrett, CC., concur.

Voss, Regulatory Law Judge,