

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 1st day of
April, 2008.

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

ORDER REINSTATING APPLICATION AND DIRECTING FILING

Issue Date: April 1, 2008

Effective Date: April 11, 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 9:00 a.m., March 11, 2008, Wasatch had not filed a valid service address for Mr. Jeffrey Witt, or an entry of appearance for alternate legal counsel.

Because Wasatch, as a limited liability company, could not represent itself before the Commission, Wasatch's failure to comply with the Commission's February 20, 2008 order made further adjudication of this case impossible. On March 11, 2008, the Commission dismissed Wasatch as a party to this case under Commission Rule 4 CSR

240-2.116(4) for failure to comply with a Commission order and dismissed Wasatch's application for good cause under Commission Rule 4 CSR 240-2.116(4).

On March 20, 2008, Wasatch filed a motion to reinstate its application, which included an updated service address and contact phone number for its legal counsel, Mr. Jeffrey M. Witt. In that motion Wasatch indicated that Mr. Witt's address had been updated in the Commission's electronic filing information system ("EFIS"), but not in the "court docket." Wasatch's pleading implies that the address was updated in EFIS in compliance with the Commission's February 20, 2008 order. However, that is not the case. Based upon the EFIS data entry log, the first attempt to update Mr. Witt's contact information was made the morning of March 11, 2008. Accordingly, Wasatch has not demonstrated good cause for its failure to comply with the Commission's February 20, 2008 order.

The Commission does, however, find good cause exists to reinstate Wasatch's application. Denying Wasatch's request would result in Wasatch refiling its application and cause the other parties to this case to incur additional litigation expense. Accordingly, Wasatch's application is reinstated.

Because the hearing dates originally proposed by the parties are no longer available and the parties may have determined that no material fact is in dispute so that a hearing is not necessary, the Commission shall direct the parties to file either a new proposed hearing date or proposed briefing schedule.

IT IS ORDERED THAT:

1. The Application of Wasatch Investments, LC, for Change of Electric Supplier dismissed without prejudice on March 11, 2008, is reinstated.

2. The parties shall jointly prepare and file either a proposed hearing date or proposed briefing schedule in this case, no later than April 14, 2008.

3. In the event a proposed hearing date is filed by the parties, any request to be excused from participation in the hearing shall be filed no less than two weeks prior to the hearing date as ultimately scheduled.

4. Objections to any request to be excused from participation in any scheduled hearing shall be filed no less than one week before the hearing date as ultimately scheduled.

5. This order shall become effective on April 11, 2008.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

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

Voss, Regulatory Law Judge