BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a Ameren Missouri's Tariffs to Increase Its Annual Revenues for Electric Service.	))))	**Case No. ER-2012 0166**

STAFF'S RESPONSE TO AMEREN MISSOURI'S MOTIONS TO QUASH NOTICES OF DEPOSITION, TO QUASH SUBPOENA DUCES TECUM, FOR PROTECTIVE ORDER, AND FOR RECONSIDERATION OF "GOOD CAUSE" DETERMINATION UNDER RULE 4 CSR 240-2.100

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its response to Ameren Missouri's *Motions to Quash Notices of Deposition, to Quash Subpoena Duces Tecum, For Protective Order, And For Reconsideration of "Good Cause" Determination Under Rule 4 CSR 240-2.100,* states as follows:

Introduction

1. This matter is a general rate case filed by Union Electric Company doing business as Ameren Missouri on February 3, 2012. Pursuant to procedural orders issued by the Commission, the evidentiary hearing herein will begin on September 24, 2012.

2. On Wednesday, September 5, 2012, Staff prepared and served electronically on counsel for Ameren Missouri a *Notice of Records Deposition*, a *Subpoena Duces Tecum* executed by the Presiding Officer, an *Exhibit A* listing items to be produced, and an *Application for Subpoena Duces Tecum* that had been presented to the Presiding Officer in partial satisfaction of the requirements

set out in Rule 4 CSR 240-2.100 for the issue of a subpoena duces tecum, true and correct copies of all of which are attached hereto as Exhibits A-D. The *Notice of Records Deposition* announced the deposition of Thomas Voss of Ameren Corporation at 11:00 a.m. on Thursday, September 13, 2012, and further advised, "[t]his is a records deposition and no appearance by Mr. Voss is required. Instead, the document *[sic]* indicated on the **Subpoena Duces Tecum** addressed to Mr. Voss should be produced for inspection and copying not later than the date and time designated in this notice." The accompanying *Subpoena Duces Tecum* and *Exhibit A* designated certain records of Ameren's Board of Directors for production.

3. Also on Wednesday, September 5, 2012, Staff prepared and served electronically on counsel for Ameren Missouri a *Notice of Telephone Deposition*, which notice announced the deposition by telephone of Mary Hoyt at 10:00 a.m. on Wednesday, September 12, 2012. A true and correct copy of the *Notice of Telephone Deposition* is attached hereto as Exhibit E.

4. On September 10, 2012, counsel for Ameren Missouri filed its *Motion to Quash Notice of Deposition, to Quash Subpoena Duces Tecum, For Protective Order, And For Reconsideration of "Good Cause" Determination Under Rule 4 CSR 240-2.100 and Motion for Expedited Treatment* directed at the *Notice of Records Deposition* and *Subpoena Duces Tecum* referred to in Paragraph 2, above.

5. Also on September 10, 2012, counsel for Ameren Missouri filed its *Motion to Quash Notice of Deposition, For Protective Order and Motion for*

Expedited Treatment directed at the *Notice of Telephone Deposition* referred to in Paragraph 3, above.

6. Later on September 10, 2012, the Commission issued its *Order Establishing Time to Respond to Motions to Quash,* requiring Staff to respond to Ameren Missouri's motions by 1:00 p.m. on September 11, 2012.

7. Ameren Missouri has evidently requested protective orders merely as a synonym for its motions to quash and does not address them specifically. Staff, therefore, will not address Ameren Missouri's request for protective orders separately, but considers everything stated herein in opposition to Ameren Missouri's *Motions to Quash* to apply equally to Ameren Missouri's request for protective orders.

8. Staff consents to addressing these matters on an expedited basis.

The Records Deposition

Staff is not attempting an "end around" of the Commission's established and binding discovery rules.

9. Ameren Missouri first argues that Staff is attempting to somehow evade the Commission's discovery rules. Ameren Missouri attaches to its motion as an exhibit Staff's Data Request ("DR") 7 which requested "all Ameren and Ameren Missouri Board of Director's meeting minutes, Board of Director Committee meeting minutes, all related reports, documents and all accompanying materials or handouts . . . [for] the period covering October 1, 2010 updated through July 31, 2012." Ameren Missouri recites that it timely objected on February 16, 2012, and further complains that Staff has taken no

steps to compel discovery or to overrule the objections "in the nearly seven months that have elapsed since that objection was lodged."

First, Staff notes that it did not challenge Ameren Missouri's objections to DR 7 because Staff feared that it *was,* in fact, overbroad and burdensome as Ameren Missouri complained. However, Staff did not thereby waive all further right to review Ameren's Board of Directors records and, as is discussed later on in this response, Ameren Missouri made at least part of those records available to Staff to inspect on site. Second, a records deposition such as the one herein at issue is a well-known and commonly-encountered civil discovery practice and is the only means for compelling the production of records by a non-party.[1] By statute, depositions are available in proceedings before the Commission in the same manner as in circuit court:[2]

> . . . any party may, in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the circuit courts of this state and to that end may compel the attendance of witnesses and the production of books, waybills, documents, papers, memoranda and accounts.

The use of a subpoena to obtain records from Ameren entities other than Ameren Missouri was raised at the Discovery Conference held in this matter on June 21, 2012, concerning Staff's DR 253, which was:

> a request for valuation analyses performed with respect to Ameren Corporation or Ameren Missouri following September 30, 2010. We understand that there was a write-down in the first quarter of

[1] A non-governmental non-party, that is. Records can be obtained from a governmental non-party using the so-called "Sunshine Law" at Chapter 610, RSMo, or the Freedom of Information Act at 5 U.S.C. § 552, depending on which government is involved.

[2] Section 386.420.2, RSMo.; Rules 57.03 and 57.09, Mo.R.Civ.Pro.

> 2012, and you would have to ask Mr. Murray what a write-down is, but we believe a valuation analysis would have necessarily been performed consequent to that write-down.[3]

Ameren Missouri advised the Presiding Officer that, while such valuation analyses may have indeed occurred, they were not in the possession or custody of Ameren Missouri. Judge Woodruff then suggested the use of a subpoena to obtain such documents.[4]

As for the timing of Staff's notices and subpoena duces tecum, Staff advises the Commission that Mr. David Murray, Staff's expert financial analyst, travelled to Ameren's headquarters in St. Louis, Missouri, to examine records of the Board of Directors on August 30 and 31, 2012; *Exhibit A* attached to the *Subpoena Duces Tecum* herein at issue was developed from Mr. Murray's notes of items obviously missing from those records. Staff has filed and served its *Notice of Records Deposition* and *Subpoena Duces Tecum* at its earliest opportunity following Mr. Murray's site visit. It should be readily apparent at this point that Staff is not evading the Commission's discovery rules by an "end around" but rather pursuing discovery in a normal and unremarkable manner.

Ameren Missouri next complains that Staff had an impermissible *ex parte* contact with the Presiding Officer when seeking the *Subpoena Duces Tecum*. Commission Rule 4 CSR 240-2.100(1) provides:

> A request for a subpoena or a subpoena *duces tecum* requiring a person to appear and testify at the taking of a deposition or at a hearing, or for production of documents or records shall be filed on the form provided by the commission and shall be directed to the secretary of the commission. A request for a subpoena *duces*

[3] Tr. 41.

[4] Tr. 46.

> *tecum* shall specify the particular document or record to be produced, **and shall state the reasons why the production is believed to be material and relevant.** (Emphasis added.)

It is common in civil practice to obtain a subpoena duces tecum directly from a judicial officer and such *ex parte* contact is not regarded as improper. Staff did no more than what the rule plainly requires, which is to prepare an application stating the relevance and materiality of the items sought to be produced:[5]

> Staff believes that the documents designated for production on Exhibit A, which are pages that were removed from the corporate board of directors' records of Ameren Corporation prior to a scheduled review of those records last week by Staff Expert David Murray, will reveal that Ameren Corporation and its paid consultants utilize for internal purposes cost of equity estimates significantly lower than those recommended by Ameren Missouri's expert witness Robert Hevert in the present rate case, thereby corroborating the testimony offered by Mr. Murray. The designated documents will also reveal risk factors and credit impediments applicable to Ameren Missouri and therefore relevant to the Commission's determination of the appropriate return on common equity. Staff believes that the designated documents, while confidential, are not privileged.

In this case, as the start of the evidentiary hearing was less than twenty days off, Staff also necessarily included a statement showing good cause:[6]

> The hearing in this matter begins on September 24, 2012, which is less than twenty (20) days from today, September 5, 2012. This *Subpoena Duces Tecum* is for a Records Deposition. Due to the press of other business, Staff was unable to schedule this deposition sooner.

Ameren Missouri next suggests that Staff has somehow denied it an opportunity to be heard with respect to the records deposition, a claim that cannot possibly be taken seriously given that Staff has been allowed only one

[5] Ex. D.

[6] *Id.*

day to respond to the *Motion to Quash* that Ameren Missouri has had five days to draft. In Commission practice, as in civil practice in the courts, a subpoena is challenged by a motion to quash filed *after* the subpoena has been served.[7] It is unheard of that a hearing would be convened on an application for a subpoena duces tecum.[8]

Ameren Missouri next contends that "Staff's claim of 'good cause' fails" because Staff is "just now getting around to pursuing these documents."[9] However, as Staff has pointed out above, it has filed and served its notices and subpoena as soon as possible following Mr. Murray's site visit on August 30 and 31. And, given that Staff is presently simultaneously litigating *four* major electric rate cases, while Ameren Missouri is litigating only one, "the press of other business" is an all-too real explanation for why Staff was one day late with respect to the 20-day-prior-to-hearing limit set out at Rule 4 CSR 240-2.100(2).

In summary, Staff has acted properly and in accordance with the statutes, rules and practices governing civil discovery and discovery practice before the Commission. Staff has not violated the *ex parte* rule or sought any unfair advantage. Staff's application for a subpoena duces tecum less than twenty days prior to the start of the evidentiary hearing in this matter was, and is, supported by good cause.

Contrary to Ameren Missouri's assertions, Staff believes that the

---

[7] Rule 4 CSR 240-2.100.3; Rule 57.09(c), Mo.R.Civ.Pro.

[8] In the experience of the undersigned, circuit court judges will sometimes convene a hearing before issuing a preliminary extraordinary writ; but he has never seen that done on an application for a subpoena duces tecum.

[9] *Motion to Quash,* etc. (Records), at p. 3.

documents sought to be produced are both relevant and material because they are expected to reveal that Ameren's hired consultants use an estimated cost of common equity that is significantly less than that recommended by Ameren Missouri's expert witness in this case.

10. Ameren Missouri next makes the novel argument that estimations of the cost of common equity made or obtained by Ameren Corporation in the ordinary course of business are somehow irrelevant in this proceeding in which the Commission must authorize a return on common equity. Ameren Missouri then quotes at length from the *Report and Order* that the Commission issued at the conclusion of Ameren Missouri's last general rate case for the proposition that the Commission **was not persuaded** by the valuation analyses marshaled by Mr. Murray.[10] Ameren Missouri thereby refutes its own argument; it has evidently confused **persuasion** with **relevance.** Staff's use of the valuation analysis evidence may not ultimately be persuasive, but it is undeniably highly relevant. And Staff is hopeful that the Commission will find it persuasive.[11]

Ameren Missouri next slyly cites to an unrelated case in which the undersigned, then Deputy Chief Regulatory Law Judge, ruled against the Office of the Public Counsel in its attempt to compel the production of certain documents belonging to affiliates of Ameren Missouri.[12] Whatever the facts of that long-ago case, they are not the facts now before the Commission. Expert

[10] *Id.,* at p. 4; *quoting* ***In the Matter of Union Electric Company d/b/a AmerenUE,*** Case No. ER-2010-0036 (***Report & Order,*** issued May 28, 2010), pp. 69-70.

[11] Perhaps that is why Ameren Missouri doesn't want the Commission to see it.

[12] *Motion to Quash,* etc. (Records), p,. 5.

valuation analyses obtained by Ameren Corporation at great expense for its internal business purposes are relevant to this proceeding insofar as they reveal Ameren's actual cost of common equity. Perhaps the Commission will find them to be more persuasive this time around. At any rate, Staff's two-fold obligation in this case is to (1) report to the Commission the results of its inquiry into Ameren Missouri's actual cost of capital, including common equity, and (2) to offer a recommendation as to a fair and reasonable return on common equity to be used by the Commission in setting Ameren Missouri's rate of return. The valuation analyses sought herein by Staff are relevant and material to those objectives.

Ameren Missouri next characterizes Staff's discovery effort as a "fishing expedition." Not so. Staff has properly sought disclosure of specific documents removed by Ameren Missouri from the Board of Directors' records made available for inspection. In particular, Staff seeks the document “Credit Rating Risks and Potential Value Protection Strategies” from the October 7, 2010, Board of Directors' Finance Committee meeting and pages 4-41 through 4-64 from the December 9, 2010, Board of Directors' Finance Committee meeting. These pages followed a discussion on corporate reorganization and are likely to encompass financing strategies. These are highly specific and highly relevant items. This is no fishing expedition.

Further, Staff points out that this is Ameren Missouri's opportunity to describe in detail the nature of the materials whose disclosure it seeks to prevent. If they are privileged, then Ameren Missouri can assert that privilege; if they are truly irrelevant, Ameren Missouri can explain as much. It is noteworthy

that Ameren Missouri has done neither; Ameren Missouri's failure to disclose sufficient details needlessly hinders the Commission in the process of determining whether or not to permit or to quash the discovery.

The Subpoena Duces Tecum is neither unauthorized nor defective.

11. Ameren Missouri next attacks the *Subpoena Duces Tecum*.[13] However, Ameren Missouri does so by relying on an inapplicable statute, § 536.077, RSMo. That provision is part of Chapter 536, the *Missouri Administrative Procedures Act ("MAPA"),* which is applicable to Commission proceedings *only* to fill the gaps in the PSC's organic law, the *Public Service Commission Law,* Chapters 386, 392 and 393, RSMo.:[14]

> "To the extent that there are matters not addressed by the PSC statutes and the administrative rules adopted by the PSC pursuant to section 386.410," the MAPA " 'operates to fill gaps not addressed within the PSC statutes.' "[15]

Here, there are no matters unaddressed by the PSC statutes and rules and so no reason to refer to Chapter 536. Commission Rule 4 CSR 240-2.100(4) provides:

---

[13] *Id.,* at pp. 6-8.

[14] Of the *Public Service Commission Law,* the Missouri Supreme Court has said: "That act is an elaborate law bottomed on the police power. It evidences a public policy hammered out on the anvil of public discussion. It apparently recognizes certain generally accepted economic principles and conditions, to wit: That a public utility (like gas, water, car service, etc.) is in its nature a monopoly; that competition is inadequate to protect the public, and, if it exists, is likely to become an economic waste; that state regulation takes the place of and stands for competition; that such regulation, to command respect from patron or utility owner, must be in the name of the overlord, the state, and, to be effective, must possess the power of intelligent visitation and the plenary supervision of every business feature to be finally (however invisible) reflected in rates and quality of service. It recognizes that every expenditure, every dereliction, every share of stock, or bond, or note issued as surely is finally reflected in rates and quality of service to the public, as does the moisture which arises in the atmosphere finally descend in rain upon the just and unjust willy nilly." ***St. ex inf. Barker ex rel. Kansas City v, Kansas City Gas Co.,*** 254 Mo. 515, ___, 163 S.W. 854, 857-858 (banc 1914).

[15] ***State ex rel. Praxair, Inc. v. Mo. Pub. Serv. Comm'n,*** 344 S.W.3d 178, 184 (Mo. banc 2011), quoting ***State ex rel. A & G Commercial Trucking v. Dir. of the Manufactured Hous. & Modular Units Program of the Pub. Serv. Comm'n,*** 168 S.W.3d 680, 682–83 (Mo. App., W.D. 2005); ***Harter v. Mo. Pub. Serv. Comm'n,*** 361 S.W.3d 52, 59 (Mo. App., W.D. 2011).

> Subpoenas or subpoenas *duces tecum* shall be signed and issued by the secretary of the commission, a commissioner **or by a law judge pursuant to statutory delegation authority**. (Emphasis added.)

Section 386.240, RSMo., authorizes the Commission to delegate its authority to its employees, including its authority to issue subpoenas duces tecum:

> The commission may authorize any person employed by it to do or perform any act, matter or thing which the commission is authorized by this chapter to do or perform; provided, that no order, rule or regulation of any person employed by the commission shall be binding on any public utility or any person unless expressly authorized or approved by the commission.

The statute does not specify the form of such delegations and the Commission clearly considers Rule 4 CSR 240-2.100(4) to constitute a sufficient delegation with respect to subpoenas duces tecum.

Ameren Missouri next asserts that there has been no "good cause" determination. That contention is nonsensical; the fact that the Presiding Officer signed the *Subpoena Duces Tecum* evidences that the necessary determination was made. In other words, the signed subpoena embodies all determinations necessary to its issuance, including the determination that Staff has made a sufficient showing of good cause. As Staff has stated elsewhere, it is currently litigating *four* general rate cases, a difficult level of engagement to manage. Staff also points out that Ameren Missouri has been in no way prejudiced by Staff's failure to seek this subpoena sooner and, in fact, Ameren Missouri does not assert that it has been prejudiced.

Ameren Missouri next purports to review the *Public Service Commission Law* and concludes that it contains no provision authorizing the subpoena duces

tecum at issue here. Learned counsel somehow overlooked § 386.420.2, RSMo, the specific provision on which Staff relies and which is set out above.

In summary, Ameren Missouri has failed to state a single meritorious reason for quashing Staff's *Notice of Records Deposition* and associated *Subpoena Duces Tecum*. Ameren Missouri has also, unaccountably, failed to assert any privileges or otherwise address the nature of the requested documents.

The Telephone Deposition

12. Ameren Missouri also seeks to quash Staff's *Notice of Telephone Deposition* relating to Mary Hoyt, an employee of Ameren. Ameren Missouri is entirely correct as to Staff's reasons for deposing Ms. Hoyt. Staff wants to know exactly what instructions she was given, and by whom, when she prepared the Board of Directors records for review by Mr. Murray. In particular, Staff wants to know more about the documents she removed.

Staff's interest is only to obtain a better idea of the nature of the documents withheld from inspection. This is an entirely proper discovery objective. Indeed, Staff must pursue this avenue of inquiry because Ameren Missouri has not prepared a privilege log or any other similar descriptive catalog of the documents withheld from inspection, thereby obstructing the Commission's ability to readily rule on this dispute.

Ameren Missouri's motion is not well-taken with respect to the deposition of Ms. Hoyt. Learned counsel has certainly defended depositions in the past and well knows that the defending attorney's role is to object when appropriate and,

when necessary, instruct the witness not to answer. This instruction is appropriate, for example, where the answer would expose a privileged matter. The mere fact that questions may be posed that are objectionable is not a sufficient or proper reason to quash the deposition. A deposition should be quashed only when the entire proceeding is improper, for example, where the notice is untimely or otherwise defective or where the purpose is harassment or causing undue expense or the like. Staff has no improper purpose here and there is no defect in the notice that Staff filed and served.

Ameren Missouri depends primarily on the so-called Work Product Privilege, which is embodied in Rule 56.01(b)(3), Mo.R.Civ.Pro.:

> ***Trial Preparation: Materials.*** Subject to the provisions of Rule 56.01(b)(4), a party may obtain discovery of documents and tangible things otherwise discoverable under Rule 56.01(b)(1) and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative, including an attorney, consultant, surety, indemnitor, insurer, or agent, only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the case and that the adverse party is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.
>
> A party may obtain without the required showing a statement concerning the action or its subject matter previously made by that party. For purposes of this paragraph, a statement previously made is: (a) a written statement signed or otherwise adopted or approved by the person making it, or (b) a stenographic, mechanical, electrical, audio, video, motion picture or other recording, or a transcription thereof, of the party or of a statement made by the party and contemporaneously recorded.

This doctrine is not helpful to Ameren Missouri because it protects only "things . . . prepared in anticipation of litigation or for trial," including "the mental impressions, conclusions, opinions, or legal theories" of a party's attorneys. In other words, the protection this doctrine gives to whatever is inside an attorney's head is secondary to the primary object of protection, which is trial preparation materials. The purpose, as Ameren Missouri helpfully reminds us, is "to prevent a party in litigation 'from reaping the benefit of his opponent's labors' and to guard against disclosure of the attorney's investigative process and pretrial strategy."[16]

Turning to the present matter, it is immediately apparent that the Work Product Privilege does not apply here because there are *no trial preparation materials at issue.* Neither the Board of Directors' records that Staff seeks to compel Ameren to disclose nor Ms. Hoyt herself were prepared in anticipation of litigation or for trial. Ms. Hoyt is not an attorney nor any of the other types of representative enumerated in Rule 56.01(b)(3), Mo. R. Civ. Pro. ("consultant, surety, indemnitor, insurer, or agent").

In support of its argument, Ameren Missouri cites a Kentucky case for the proposition that "attorney work product prepared by a paralegal is protected with equal force[.]"[17] Staff agrees with this proposition and reiterates that the deposition of Ms. Hoyt is intended only to learn the specific nature of the Board of

---

[16] *Motion to Quash,* etc. (Telephone), p. 3; quoting from ***In the Matter of Kansas City Power & Light Company,*** Case No. ER-2009-0089 (***Order Regarding Staff's Motion to Compel,*** issued December 9, 2009) at p. 10.

[17] *Id.,* p. 4; quoting ***Wal-Mart Stores v. Dickinson,*** 29 S.W.3d 796, 805 (Ky. 2000). It is noteworthy that ***Dickinson*** involved an attempt to prevent the deposition of a paralegal via a writ of prohibition directed at the trial court that had refused to quash; the Kentucky Supreme Court *affirmed* the denial of the writ, while recognizing that privileged information could not be discovered through the deposition.

Directors' records withheld from inspection. Those documents are *not* trial preparation materials and are therefore not protected by the Work Product Privilege.

The core of Ameren Missouri's argument seems to be that Ms. Hoyt's redaction of the Board of Directors' records is somehow protected by the Work Product Privilege. Not so. Mr. Murray seeks only one type of information, which he hopes will be found in the withheld documents, and that is valuation analyses revealing Ameren's actual cost of common equity. These analyses were not prepared for litigation or for trial and are therefore not protected from discovery by the Work Product Privilege. How, then, can the act of redacting them be protected by that privilege? Pursuant to the plain language of Rule 56.01(b)(3), Mo.R.Civ.Pro., intangible work product is protected *only* insofar as it may be disclosed by the discovery of trial preparation materials. Here, there are no trial preparation materials and thus no protection.

In summary, Staff reiterates that the possibility that objectionable questions may be asked is not sufficient reason to quash the deposition of Ms. Hoyt. It is, instead, a reason for Ameren Missouri's counsel to be watchful and wary while defending her deposition. Staff has no improper purpose in deposing Ms. Hoyt and seeks only a limited type of information having to do with her redaction of the properly discoverable Board of Directors' records.

Conclusion

13. Staff has addressed every argument and insinuation raised by Ameren Missouri in its attempt to quash both the records deposition seeking the

withheld Board of Directors' documents and the telephone deposition of paralegal Mary Hoyt, and has shown that none of them are meritorious. The *Notice of Records Deposition* and accompanying *Subpoena Duces Tecum* were authorized, timely and not defective. The subpoena was properly obtained from the Presiding Officer, who is authorized to issue such writs. Staff made the required showing of good cause and that showing was evidently sufficient. The documents sought to be discovered are relevant and material. Staff has no improper purpose, either in seeking the Board of Directors' documents or in deposing Ms. Hoyt. Counsel for Ameren Missouri is entirely capable of interposing appropriate objections and giving instructions to the deponent if objectionable questions are asked.

For all of these reasons, the Commission should deny Ameren Missouri's *Motions to Quash.*

WHEREFORE, Staff urges the Commission to deny Ameren Missouri's *Motion to Quash Notice of Deposition, to Quash Subpoena Duces Tecum, For Protective Order, And For Reconsideration of "Good Cause" Determination Under Rule 4 CSR 240-2.100 and Motion for Expedited Treatment* directed at the Notice of Records Deposition and Subpoena Duces Tecum referred to in Paragraph 2, above, and Ameren Missouri's *Motion to Quash Notice of Deposition, For Protective Order and Motion for Expedited Treatment* directed at the Notice of Telephone Deposition referred to in Paragraph 3, above; and to grant such other and further relief as is just in the circumstances.

Respectfully submitted,

s/ Kevin A. Thompson
KEVIN A. THOMPSON
Missouri Bar Number 36288
General Counsel

Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
573-751-6514 (Voice)
573-526-6969 (Fax)
kevin.thompson@psc.mo.gov

Attorney for Staff.

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this **11th day of September, 2012,** to the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

s/ Kevin A. Thompson