

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

City of Fulton, Hannibal Board of	)	
Public Works, Kirkwood Electric,	)	
City of Marceline and City of	)	
New Madrid, Complainants,	)	
	)	
v.	)	Case No. EC-2026-0156
	)	
Union Electric Company d/b/a Ameren	)	
Missouri,	)	
	)	
Respondent.	)	

**COMPLAINANTS' OBJECTION AND RESPONSE TO
RESPONDENT'S APPLICATION FOR LIMITED REHEARING**

Pursuant to *Revised Statutes of Missouri* (“RSMo”) §386.500, §386.610 and 20 *Code of State Regulations* (“CSR”) 4240-2.080(13), Complainants herein object and respond to Respondent’s September 3, 2026 Application for Limited Rehearing of the Missouri Public Service Commission’s (“Commission”) *Order Granting Summary [sic] Determination on the Pleadings* (“Order”) entered on August 5, 2026 (Effective Date September 4, 2026).¹ In sum,

¹ Respondent also filed, on September 11, 2026, its “Respondent Ameren Missouri’s Response to Complainant’s Application for Rehearing.” Section I, pages 1-4, incorporates by reference Respondent’s unlawful September 3 Application and otherwise consists only of attorney argument unsupported by citation to law or evidence of record and should therefore be disregarded. *See In re Union Elec. Co. d/b/a Ameren Mo.’s Voluntary Green Program/Pure Power Program Tariff Filing*, No. EO-2013-030, 2013 WL 1088576, at *4 and n.8 (Mar. 6, 2013) (“However, the Commission makes clear that the assertions, allegations, and statements of attorneys in pleadings, briefs or oral arguments do not constitute evidence” and “It is well established legal doctrine that unsworn statements of attorneys or parties, statements in briefs, pleadings, motions, arguments, allegations, or charging documents, as well as articles or exhibits not formally or constructively introduced are not evidence of the facts asserted unless conceded to by the opposing party.”) (citing Missouri cases in support).

Missouri law bars Respondent from seeking any rehearing of the Order. Therefore, Complainants object to Respondent's September 3 Application which should be stricken from the record and/or disregarded because said filing is unlawful, unreasonable and invites the Commission to commit additional reversible error.

Respondent has no legal right to apply for any rehearing of the Order:

Respondent admits at page 1 of its September 3 Application that it "does not challenge the Commission's dismissal of the Complaint or its substantive conclusions, both of which are correct." There is therefore no dispute that Respondent prevailed over Complainants in the Order and that Respondent is pleased with that result.

Missouri law does not thus grant Respondent any right to seek rehearing of this Commission Order. A "party who believes it is aggrieved by that final Commission decision may seek rehearing and, if successful, may pursue appellate remedies under Section 386.500-.510." *Mo. Pub. Serv. Comm'n v. Office of Pub. Counsel (In re Evergy Metro., Inc.)*, 677 S.W.3d 526, (Mo. App. W.D. 2023). Respondent has admitted that it is not "aggrieved" by the Order and thus Respondent has no legal right to seek any rehearing of said Order. Complainants thus object to the September 3 Application which should be stricken from the record and/or disregarded.

The remainder of that September 11 filing (Sections II, III and IV) consists entirely of attorney argument unsupported by citation to law or evidence of record and should therefore be disregarded. *Id.* Additionally, in the interest of candor to this Commission, one untrue declaration by Respondent in Section II, Footnote 28 is corrected herein. Respondent argues that the record evidence of its Big Hollow Project CCN ordering ongoing compliance with federal and state permitting laws applied only to the limited time of construction of the facility. Not true. At Page 10 of Complainant's April 23, 2026 Reply, the record of evidence shows that Respondent's CCN is conditioned on all "future triennial IRP filings" and "future CCN cases" including reporting on all permitting requirements.

The Commission cannot lawfully or reasonably “clarify” the procedural basis of its Order by superimposing Respondent’s name on Complainant’s Motion for Determination on the Pleadings, or by the Commission posthumously making its own motion:

Without waiving its pending objection to Respondent’s September 3 Application, and expressly reserving same, Complainants respond as follows. At pages 2-3 of its Application, Respondent suggests that this Commission credit Respondent with Complainants’ Motion for Determination on the Pleadings. But, Respondent failed to request a determination on the pleadings, and Respondent fails to cite any law in support of this argument that Complainants’ legal filing should be twisted by the Commission to benefit Respondent.

At pages 3-4 of its September 3 Application, Respondent suggests that this Commission now – long after issuing its final Order – turn the clock backwards and pretend that it previously made its own motion for determination on the pleadings. Nothing in 20 CSR 4240-2.117(2) grants the Commission such authority. Indeed, the Commission’s rule on Rehearings and Reconsideration prohibits the Commission from making its own motion after the Commission has already issued its final order. 20 CSR 4240-2.160(2).

Respondent’s two suggestions amount to a request that this Commission “impermissibly act as an advocate” for Respondent – and that is unlawful and unreasonable. *Hanshaw v. Crown Equip. Corp.*, 729 S.W.3d 228, 232 n. 2 (Mo. 2026).

Respondent’s suggestion that the Commission reverse its earlier finding and now find Respondent’s motion legally sufficient is not supported by the law cited by Respondent:

Without waiving its pending objection to Respondent’s September 3 Application, and expressly reserving same, Complainants respond as follows. At pages 4-10 of its September 3 Application, Respondent suggests that there is Missouri case law which holds that Respondent’s

failure to file its dispositive motion in compliance with governing law was not actually fatal. But, the cases cited by Respondent do not support its argument.

Respondent cites *R&S Home Builders, Inc. v. KCP& L Greater Missouri Operations Co.* as grounds for Respondent's argument that its "failure to attach a separate legal memorandum did not, standing alone, require denial of summary determination in its favor." But, the *R&S Home Builders* Commission had the benefit of multiple briefs and memoranda from both parties, where here Respondent failed to provide this Commission with any memorandum. 2015 WL 1394444, at *2.

Respondent cites *Premier Golf Missouri, LLC v. Staley Land Co.* (and the *Rodgers v. Threlkeld* and *Gillespie v. Estate of McPherson* cases cited internally) for the proposition that "procedural noncompliance does not" *per se* preclude summary judgment. But, Respondent provided only a partial quotation. The *Premier Golf* Court actually held that, "Generally, failure to comply with Rule 74.04(c)(1) warrants a trial court's denial of a summary judgment motion and warrants an appellate court's reversal of the grant of summary judgment." 282 S.W.3d 866, 872 (Mo. App. W.D. 2009).

Respondent argues that the *Gillespie* Court faced the same "procedural" issue that exists herein with Respondent's failure to file a legal memorandum. Not so. The *Gillespie* Court ruled that the movant's failure to file a legal memorandum did not "per se" prohibit the summary judgment because the movant "corrected its failure to comply with Rule 74.04(c)(1) by filing a separate memorandum in support of its motion for summary judgment after [the opposing party] filed her response to [the movant's] motion for summary judgment pointing out the failure." *Gillespie v. Estate of McPherson*, 159 S.W. 3d 466, 470 (Mo. App. E.D. 2005).

Respondent here failed to file a legally sufficient motion and failed to timely correct that error.

Conclusion and Prayer for Relief:

Complainants object to Respondent's September 3 Application which should be stricken from the record and/or disregarded because said filing is unlawful, unreasonable and invites the Commission to commit additional reversible error.

On the other hand, Complainants' Application for Rehearing invites the Commission to correct the errors in the Order which render the Order unlawful and unreasonable and devoid of any view to the public welfare, efficient facilities and substantial justice between patrons and the Respondent. It has been judicially-determined, Commission-acknowledged and Respondent-admitted that Respondent violated the Clean Air Act while operating its Rush Island facility. It is also undisputed that said federal law was incorporated into Respondent's Tariff and CCN. Therefore, given the governing law and the undisputed material facts, the Complainants respectfully request that the Commission grant rehearing to correct its errors and issue a lawful and reasonable order of Determination on the Pleadings or Summary Determination in Complainants' favor that Respondent violated its Tariff and its CCN. Complainants request all such further relief as the Commission deems just and necessary.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing “Complainants’ Objection and Response to Respondent’s Application for Limited Rehearing” has been served within the EFIS system on this 12th day of September 2026.

/s/ Peggy A. Whipple

Peggy A. Whipple