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 MOTION TO STRIKE AND MOTION FOR EXPEDITED TREATMENT

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and hereby moves the Commission to strike Ameren Missouri's unauthorized reply to *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.* In support whereof, Staff states as follows:

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.

2

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. This order did not contemplate, nor did it authorize, any reply by Ameren Missouri to Staff's response.

7. Staff filed its 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, at 9:32 a.m., well in advance of the deadline set by the Commission's order.

8. At 1:35 p.m. on Tuesday, September 11, 2012, Ameren Missouri filed a *Reply* to Staff's *Response* referred to in Paragraph 7, above.

9. The Commission's order of September 10 set a deadline for Staff's response; it did not contemplate or authorize any reply by Ameren Missouri. Staff states that it has been unduly prejudiced by Ameren Missouri's unauthorized reply such that Staff prays that the Commission will either strike it as unauthorized or grant Staff an opportunity to reply in turn, perhaps by 8:00 a.m. on Wednesday, September 12.

10. Under the circumstances, Staff moves for expedited treatment of its *Motion to Strike.*

WHEREFORE, Staff urges the Commission to strike as unauthorized Ameren Missouri's Reply to Staff's Response to Ameren Missouri's Motions to Quash Notice of Deposition, to Quash Subpoena Duces Tecum, For Protective

3

Order, And For Reconsideration of "Good Cause" Determination Under Rule 4 CSR 240-2.100 and Motion for Expedited Treatment; and to grant such other and further relief as is just in the circumstances.

Respectfully submitted,

<u>s/ Kevin A. Thompson</u> **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