

In the Matter of:

The Revision of the Commission's Rules Regarding Electric Utilities

EX-2018-0389 VOL. I

January 28, 2019



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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Rulemaking Hearing

January 28, 2019

Jefferson City, Missouri

Volume 1

In The Matter Of The Revision)
Of The Commission's Rules) File No. EX-2018-0389
Regarding Electric Utilities)

NANCY DIPPELL, Presiding
SENIOR REGULATORY LAW JUDGE

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1 JUDGE DIPPELL: Let's go ahead and go on
2 the record. Okay. It's January 28th, 2019 and the
3 Commission has set this time for a rule comment
4 hearing in File Number EX-2018-0389 in the matter of
5 the revision of the Commission's rules regarding
6 electric utilities. These are Rules 4 CSR 240-3.185
7 20-- these are all titled 4 CSR 240. Also Chapter
8 20.070, Chapter 3.145 and Chapter 20.105.

9 I'd like to welcome you all here today
10 and thank you for taking part in this process. The
11 procedure we're going to follow is that I'm going to
12 ask Staff to give their comments first, if that looks
13 agreeable. And then I'll -- I'll probably go down the
14 line from there.

15 I'll go ahead and go to Public Counsel
16 and Ameren since they filed written comments unless
17 you all prefer to wait to the end. And then I see
18 Mr. Fischer is here and if you have any additional
19 comments. And then we'll take it from there.

20 If there's a need for more of a
21 discussion about some of the -- it looked like some of
22 the comments were pretty technical, so if there's a
23 need to have a dialogue going back and forth, that's
24 fine as long as we allow for the court reporter one
25 comment at a time and I'd prefer to speak about one --

1 one rule at a time so that it's clear later if I have
2 to make a summary of these comments, which I do.

3 So -- and I'll ask you -- you can stay in
4 your chairs are fine or if you don't have a
5 microphone, I'd ask you to come up to the podium, but
6 just be sure and speak into the microphone so that
7 people listening and that the recording picks it up.
8 I guess that's -- that's it.

9 Looks like everybody has participated in
10 this kind of thing pretty much before or at least
11 their party that they're representing has, so if you
12 have any questions, just let me know. This is a very
13 informal process.

14 So let's go ahead and begin with Staff.
15 And you can begin by giving the court reporter your
16 name and the spelling and then stating whatever
17 comments.

18 MR. PRINGLE: Good morning, Judge. My
19 name is Travis Pringle. I'm legal counsel with Staff.
20 I have given my information to the court reporter.

21 We filed our comments in this case on
22 January 17th. For any questions about those comments,
23 I have Staff witness Jamie Myers here with me.

24 JUDGE DIPPELL: Okay. I do not have any
25 questions about the comments that you filed, but did

1 you want to make any response to the other comments,
2 Ms. Myers?

3 MS. MYERS: Sure. I do have a response
4 to the filed comments by OPC and Ameren Missouri, and
5 I can make those responses now.

6 So I appreciate both Public Counsel and
7 Ameren Missouri filing these comments. These rule
8 rec-- or rulemakings right here, these rescissions,
9 amendments and a promulgation of new rule were part of
10 this larger rule review process. What we were trying
11 to do is streamline, consolidate, simplify the rules
12 to the extent we could. And so I think both OPC and
13 Ameren Missouri provided some additional thoughts and
14 ways we could do that.

15 So first with Public Counsel's comments,
16 they provided a comment to the newly promulgated rule
17 4 CSR 240.20.105, which is taking the place formally
18 of a rule that was in Chapter 3 that had the
19 utility -- electric utility rate schedules. In
20 promulgating this new rule, what we were trying to do
21 is clean it up and simplify it. There are a lot of
22 references to 1913, a lot of references to providing
23 14 copies that are unnecessary.

24 But I think OPC notes there might be a
25 couple language clean-ups we could do. So in

1 Section 1, OPC recommended instead of using the verb
2 "generation," we should use "generating." Staff has
3 no problem with that recommendation.

4 As well as the word "municipality" is
5 currently in Section 22. It was also formerly in
6 Section 23 of the 3.145 rule. That language does not
7 need to be there. We're not sure why "municipality"
8 is in there. It's meant to cover electrical
9 corporations so removing "municipality" is fine with
10 Staff as well.

11 In terms of Ameren Missouri's comments,
12 Ameren had several comments and I can walk through
13 them. First -- and I'll say I think all of the
14 comments are addressed at this newly promulgated Rule
15 20.105.

16 Ameren's first comment on 20.105 is on
17 Section 2. I'm going to pull up my rule language
18 here. Section 2 requires electrical corporations to
19 publish rate schedules and to keep them at their
20 principal operating offices as well as any branch
21 offices and make them available if requested by
22 anyone.

23 Ameren's suggesting that that's no longer
24 necessary in these comments, that everyone either has
25 personal access to internet or can go to a public

1 library and access internet and so, you know,
2 utilities don't need to keep these -- electrical
3 corporations don't need to keep these rate schedules
4 on hand.

5 Staff would disagree. I think that it's
6 not burdensome for the utility to have a copy of its
7 tariffs on file, nor is it burdensome to make someone
8 available to -- to discuss those with the customer.
9 It doesn't have to be in person; it could be on phone.
10 I think the language as Staff proposed would allow for
11 that sort of phone communication if a customer is
12 given a tariff and then has to follow up with someone
13 who can talk about that tariff. So from Staff's
14 perspective, we would suggest that the language in
15 Section 2 be -- remain as-is.

16 And then moving on, paragraph 8, Ameren
17 has a comment on 20.105, Section 5. This section
18 talks about the various rate classes. What had
19 previously been done is adopting a uniform system of
20 classifications that says it will be followed as
21 closely as practical. Some of these classifications
22 don't fit necessarily every electrical corporation.
23 Every electrical corporation has different rate
24 classes.

25 What Ameren has proposed here is very

1 specific to Ameren Missouri's rate classes and would
2 not cover all electrical corporations. I think what
3 Staff would suggest is if we're going to move away
4 from this uniform system of classifications, it should
5 be something more general that just talks about
6 residential, non-residential and then would define
7 company-owned street and outdoor lighting and not go
8 into the specific rate classes as Ameren has proposed
9 here.

10 JUDGE DIPPELL: So did Staff have
11 specific alternate language that they suggest or --

12 MS. MYERS: Do you want to come up to the
13 microphone?

14 I might have Robin Kliethermes answer
15 that from a rate and tariff perspective.

16 MS. KLIETHERMES: At this time I don't
17 think we have exact verbiage for what should be used,
18 but as general, I mean non-residential, residential I
19 think can be generally defined. Just not listed.
20 They have the categories one through six. Just not
21 that specific listing.

22 JUDGE DIPPELL: Okay.

23 MS. MYERS: Okay. And then moving onto
24 paragraph 9 in Ameren Missouri's comments, that's a
25 comment on 20.105, Section 7. This talks about

1 removing references to title page. Again, we see
2 value in having the title page spe-- or specifically
3 if we're not electronically filing or if we're making
4 something available not electronically, which Staff
5 would recommend we still do. So I think Staff would
6 recommend that 7 stay as proposed.

7 And then moving onto comment 10, this is
8 to 20.105, Section 8. There's a series of bullet
9 points here as comments. The first bullet points
10 talks again about title page. Staff would recommend
11 the title page still remain.

12 The second bullet point talks about
13 references to loose leaf. Here I think it's okay to
14 remove loose leaf. I think even if you remove the
15 word "loose leaf," it still would read "title page or
16 sheet of every schedule of rates shall show." So it
17 still allows for if it's a hard copy of something.
18 But I think the word "loose leaf" is not necessary so
19 it could be removed.

20 Three is not really -- it's more just a
21 general statement that I don't think needs to be
22 addressed.

23 And then moving on, 4, 5 and 6 again are
24 comments on the specifics of what the tariff should
25 look like. From Staff's perspective and in

1 conversations -- and I'll include G in that as well,
2 so D, E, F, G, so 4, 5, 6 and 7 bullet points. We
3 think the format should stay as-is. There's value in
4 that consistency.

5 And I will note additionally in bullet
6 point 4, which is section -- subsection D, part of
7 what Ameren Missouri is suggesting removing is not
8 only that consistent format, but also is another
9 provision that requires the rate publication must be
10 on file with the Commission and be kept at every place
11 where the schedule making reference is kept for public
12 inspection. So again, that making it publicly
13 available statement.

14 JUDGE DIPPELL: And just for my
15 clarification, when the rules require the schedules be
16 available, so that's at every branch of every --

17 MS. MYERS: Yes.

18 JUDGE DIPPELL: -- that receives payment
19 or that has customer service facilities or --

20 MS. MYERS: Yes. So it keeps a schedule
21 of rates filed with the Commission at its main or
22 principal operating office and in each division
23 office, as well as where contracts for service are
24 made or payment for customer service is received. So
25 where payment is received, principal operating office,

1 as well as branch offices.

2 JUDGE DIPPELL: Okay. Go ahead.

3 MS. MYERS: And then comment 11 is a
4 comment on 20.105, Section 9. Again, this is removing
5 references to title page. I will say as part of this
6 comment under classification of service, it's 9C,
7 Ameren Missouri's suggesting deleting "commercial
8 light and commercial power and street lighting" to
9 "residential and non-residential." I think Staff is
10 okay with that change right there.

11 JUDGE DIPPELL: And that was in paragraph
12 C, you said?

13 MS. MYERS: Yes.

14 Okay. Comment 12 is a comment on 20.105,
15 13. Again, what Ameren was suggesting here is that we
16 can remove references to -- or because loose leaf
17 isn't necessary anymore and we can use website
18 publication, we can remove some of this language. I
19 think some of this language can be changed. I don't
20 think it can be necessarily changed as Ameren
21 suggested because we are still suggesting that hard
22 copies be made available.

23 So Ameren has removed the word "printed"
24 and put "published." I think the language could be
25 something like "printed and/or published." Similarly,

1 with re-issued, they removed the word "re-issued" and
2 inserted "republished." Again, I think it could be an
3 and/or. Re-issued and/or republished.

4 And then the last sentence of 13, again
5 "printed" has been stricken and the word "publish" has
6 been inserted. Again, I think it could be a "printed
7 and/or published" change.

8 JUDGE DIPPELL: And what is the
9 distinction that Staff sees between printed and
10 published?

11 MS. MYERS: I think -- again, I think
12 there is a difference between something being
13 published with the Commission or published in EFIS
14 versus being made available with a hard copy.

15 JUDGE DIPPELL: So you see published as
16 being like filed in EFIS or --

17 MS. MYERS: Right.

18 JUDGE DIPPELL: Okay.

19 MS. MYERS: But I would say if -- if you
20 would view the word as all encompassing as published,
21 that would be fine. We just want to make clear that
22 we want those hard copies to still be available if
23 requested.

24 JUDGE DIPPELL: You can go ahead.

25 MS. MYERS: And then comment 13 is a

1 comment on 20.105, 16 and 18. What Ameren Missouri is
2 saying here is that if the Commission accepts the
3 premise that printed rate schedules are no longer
4 necessary, then the entire Section 16 can be deleted.

5 Again, Staff would disagree with that.

6 And then again, Ameren on -- on the
7 premise that you could delete 16 entirety, which Staff
8 disagrees with, Ameren was also saying and then you
9 would change references in -- in 18, which again,
10 Staff would disagree with.

11 Comment 14 is a comment on 20.105,
12 Section 21. And again, this is just removing
13 references to that hard copy being made available,
14 which Staff would disagree with. However, there is
15 one word change in 21. On the line that talks about
16 approximately 100 words or less, Ameren has suggested
17 using "fewer" instead of "less." That's a change
18 Staff would be fine with as well.

19 And then comment 15 is a comment on
20 20.105, Section 24. This talks about how rate
21 schedules are filed or supplements are received. I
22 mean the rule, when written, contemplated mailing or
23 hand delivering. I think there's room to make it
24 broader, though I don't think that's necessary. I
25 think "received" still would include whether it's

1 received via an electronic submission or hand
2 delivering or mail.

3 What Ameren Missouri's comments here
4 though would remove a line saying received by -- or
5 "delivered to the Commission free from all charges or
6 claims for postage." I think that line should stay
7 in. It should not be stricken. There still may be
8 received via postage and so it -- it seems to me that
9 language should stay in.

10 Again, Ameren has some alternative
11 language that talks about when a filing will be deemed
12 complete and when it's not an error on the
13 Commission's electronic filing system.

14 Again, I don't think that sort of
15 language is necessary. But I will note that towards
16 the end of Section 24, Ameren struck out the word
17 "telegraphic" and inserted "telephonic." There's
18 currently a line that reads "no consideration will be
19 given to telegraphic notices in computing the 30 days
20 notice required."

21 Instead of inserting "telephonic," I
22 think the entire sentence could be stricken. And that
23 would be a clean-up change that was not contemplated
24 in the original review.

25 Okay. And then comment 16 is a comment

1 on 20.105, Section 28. I've reviewed Ameren
2 Missouri's language here and I think it's -- it looks
3 fine. It contemplates now that there will be filing
4 in EFIS, as well as the ability to file hard copies or
5 transmit or hand deliver one copy of each rate
6 schedule.

7 And lastly, Ameren Missouri had a comment
8 on 20.105, 29. And that's just deleting some language
9 about the duplicate receipt and that's also something
10 Staff is okay with.

11 And so unless you have questions, those
12 were the comments that Staff had on the pre-filed
13 comments.

14 JUDGE DIPPELL: I don't have any further
15 questions. I will ask, I didn't have, Ms. Myers,
16 either you or Ms. Kliethermes state your position with
17 the -- with the PSC.

18 MS. MYERS: Sure. My name is Jamie Myers
19 and my position is Commission Staff deputy director.

20 JUDGE DIPPELL: And Ms. Kliethermes?

21 MS. KLIETHERMES: My name is Robin
22 Kliethermes and I'm the rate and tariff examination
23 manager of the Missouri Public Service Commission.

24 JUDGE DIPPELL: Thank you.

25 If that's all of Staff's comments at this

1 point, then I will ask if Public Counsel has any
2 additional comments?

3 MR. HALL: Thank you, Your Honor. Caleb
4 Hall appearing on behalf of the Public Couns-- or
5 Office of Public Counsel. That's Hall spelled like a
6 hallway.

7 Thank you for this opportunity to provide
8 comments at this time. Our -- our comments that were
9 filed were responding generally to the Commission
10 Staff's prerogative of consolidating and retrofitting
11 rules going forward in response to then Governor
12 Greitens' executive order to that effect.

13 As Commission Staff has already pointed
14 out, our two comments were largely on grammatical er--
15 what we saw as potential grammatical error and a
16 hanging chad of sorts in that there was a reference to
17 municipalities within Section 22 of the newly amended
18 Section 105 of Chapter 20.

19 It -- it occurs -- it occurs to me that
20 that could have been a reference to from back from
21 1911, back when the early -- in the twentieth century
22 there were debates as to how far the Commission's
23 jurisdiction actually went. And there were times
24 where the Commission actually did regulate
25 municipalities in this state. That is not the case

1 now.

2 We're glad that the Commission has
3 accepted our comments and responded accordingly. OPC
4 generally concurs with Ameren's comments, although we
5 would quibble with some parts of the language if the
6 Commission were to seriously consider Ameren's
7 suggestions.

8 Notably, although Ameren does make good
9 points about as the internet is advancing and more
10 people have access to electronic means of accessing
11 the tariffs that public inspection may be less
12 relevant -- public inspection of hard copies may be
13 less relevant in today's world, we still -- there are
14 still people that would still utilize that option of
15 public inspection of records at Ameren's offices and
16 customer billing services. We would ask that the
17 option for public inspection be maintained.

18 I believe Commission Staff's witness
19 Jamie Myers has gone through Ameren's comments enough
20 to address any of the points that we would have with
21 any particular revision that Ameren proposed.

22 JUDGE DIPPELL: Okay.

23 MR. HALL: So unless you have any
24 questions of our office, I believe I'll defer to other
25 parties at this time.

1 JUDGE DIPPELL: All right. Thank you.

2 Did Ameren want to make comments?

3 MS. JOHNSON: Yes. Thank you, Your
4 Honor. Paula Johnson on behalf of Union Electric
5 Company, Ameren Missouri.

6 I will pretty much hue to the same
7 comments that -- that Staff has addressed in order to
8 try to keep things simplified. As a general matter, I
9 would note that in asking our security people in our
10 corporate head offices, no one has any recollection of
11 anyone coming in to try to access the tariffs in hard
12 copy. Any communication we've had in that regard has
13 been by telephone, by people looking at it on the
14 internet.

15 I'd also just kind of reiterate that we
16 do have security concerns in certain aspects of -- of
17 that kind of an access. I mean if someone comes in to
18 look at it, unless they're escorted, they do have to
19 stay out in that main general area. They can't go
20 into any badge secur-- secured area without an escort
21 anyway.

22 So it really leaves it only to the
23 security personnel -- and that's at the corporate
24 office -- to try to deal with these inquiries and to
25 coordinate someone coming over to talk to them or

1 calling to talk to them. And if they're calling and
2 talking to them and they are really not gaining a lot
3 from being at home or at the library in front of a
4 computer and looking at it and talking from them,
5 they've just driven to the corporate offices and are
6 dealing with security to call and talk to someone
7 anyway.

8 We also have the issue that in some of
9 our branch offices, like the office -- don't always
10 have someone monitoring the front door and you have to
11 have a badge to get in in the first place. Now, yes,
12 they can come up and ring a doorbell and bring -- be
13 brought in and escorted and sat down to look at
14 everything, but there's not always a guarantee that
15 someone is going to be there and able to help them.
16 And certainly not outside of business hours like our
17 Customer Experience Department is currently set up to
18 do until I believe 7:00 in the evening.

19 So were there people actually coming out
20 and making the inquiry, I'd be an advocate for keeping
21 the paper copies. But right now it's solving a
22 problem that doesn't exist anymore in this day and
23 age. And I think given how much we're moving towards
24 electronic filing and all kinds of other -- it's just
25 kind of become obsolete over time.

1 I also question the value of having --
2 and one of the more expansive regulations that
3 requires it not only be at the corporate office but
4 all the branch offices, operations offices and payment
5 stations. I mean we have payment stations and payment
6 things set up with a lot of different kiosks and
7 businesses.

8 And I hate to ask like a Schnucks or a
9 Dierbergs to keep our tariffs on file because they
10 aren't going to know how to respond to them either and
11 are just going to stand there and let people look at a
12 hard copy while they call our Customer Experience
13 Department.

14 So I understand -- and I got to admit I
15 have my own personal fears about losing books. And,
16 you know, 600 years from now are people going to think
17 we never read anything and never kept anything? But
18 at the same point, 600 years from now, no one's going
19 to care about what our company tariffs were at the
20 time. Right now people want to -- want to look at it,
21 they want the convenience and we're doing what we can
22 to enhance that.

23 If we still must maintain a hard copy, we
24 will do it, but it's just shown no value at this
25 point -- at this point in history. So we do think

1 that given the proliferation of the internet, it's,
2 again, solving a problem that doesn't exist anymore.

3 Let's see. As far as our paragraph 8,
4 which is addressing 240.20.105, 5, we are fine with
5 the suggestion to break that -- the classification of
6 rate classes even further down to just residential,
7 non-residential and street lighting. We were just
8 trying to go for something that seemed a little more
9 reflective of what we're currently doing as opposed to
10 what was on the regulation. And we're fine with being
11 that general with it.

12 Let me see. I did have -- let me see --
13 a question on -- oh, I'm sorry. In paragraph 13 with
14 4 CSR 240.20.105, 16 and 18, there is one section that
15 I think may have been accidentally written off as a
16 correction made because of our desire to get rid of
17 the hard copies.

18 We think there actually is -- in the
19 first line of our suggested change in the language, we
20 do think that was an incorrect reference to Section 16
21 and it should be 15. Because Section 15 in the
22 recommended ones specifically does address the number
23 of supplements and I think that's what the sentence is
24 referring to rather than what's in 16. So even if we
25 don't go with getting rid of hard printed copies, I

1 think that correction is still accurate.

2 Let me see. Oh, and as far as published,
3 the word "published" I think covers both electronic
4 and hard copy -- hard copy publication. But that
5 said, we are amenable that if it provides some
6 comfort, we are amenable to the language "and/or"
7 depending on what the outcome of having the hard
8 copies is also.

9 I think some of the other changes, it's
10 been recommended we don't necessarily need to provide
11 for some of the electronic filing requirements. I --
12 I do think we do actually. And specifically if we
13 look at our paragraph 15 and the changes we've
14 recommended regarding at least adding language about
15 the electronic filing system.

16 Even if we believe the possibility of
17 hard copy filing, which I think, you know, if -- if
18 Staff feels strongly about that, it's not something we
19 utilize, but it's not something we would dispute
20 remaining in the reg, but we do think some allowances
21 should be built in for electronic filing systems.

22 Not that it has happened, to my
23 knowledge, but there is always a possibility of a
24 server failing or some kind of issue going on and we
25 know that we would be granted an allowance if that

1 happened, but we may as well codify it if the error
2 was not on our end. So if there were some language
3 just accounting for that kind of like server error or
4 sim-- similar error that wasn't on our side, just so
5 that it was hard coded that, yes, we would get
6 consideration for that, we'd be appreciative.

7 And I think that pretty much covers my
8 comments. And I hope this has been helpful and I'm
9 really -- we are very appreciative of the
10 consolidation of the regulations in general. We think
11 this has taken out a lot of duplication and a lot --
12 and it's made everything in a much more logical layout
13 and we're very happy about this initiative overall and
14 hope that our contribution to it has been valuable.

15 JUDGE DIPPELL: We appreciate your filing
16 comments and taking the time to look at what changes
17 you think should be made. While we have the process
18 going on, this is the time to speak up so.

19 Ms. Myers, did you want -- you look like
20 you wanted to say something else there when
21 Ms. Johnson was making comment. I didn't know.

22 MS. MYERS: Actually I just -- if
23 Ms. Johnson's finished, I just wanted to follow up. I
24 agree with the comment made about what is proposed as
25 paragraph 18. The reference in there currently reads

1 Section 16, and Ms. Johnson's correct. That should be
2 Section 15. The reference is incorrect as proposed.

3 JUDGE DIPPELL: Thank you.

4 Mr. Fischer, did you want to make some
5 comments?

6 MR. FISCHER: Yeah. For the record, Jim
7 Fischer on behalf of Kansas City Power & Light Company
8 and KCPL Greater Missouri Operations Company.

9 My clients did not file written comments,
10 but they did review the comments of Ms. Johnson and
11 Ameren and do support those.

12 I would just note that certainly in the
13 time I've been around, we've seen customer service
14 practices of the utilities change a lot. And in the
15 case of our clients, there are no KCPL offices that
16 accept payment on -- on premises. They're always
17 referred to -- if they have a customer service
18 problem, to the -- the toll-free number or the other
19 local number where they will talk with a customer
20 service representative by telephone. And if they even
21 get in the door, they're generally referred to that
22 number.

23 So it's really not -- there are -- there
24 are -- as Ms. Johnson noted, there are payment
25 stations that are not really offices of the company,

1 but are -- are Hy-Vee or whoever it might be. Those
2 would not have copies of the tariff and wouldn't be in
3 a position to answer questions anyway. So I think
4 largely the -- the use of the tariff book has become
5 pretty obsolete in terms of hard copies for -- for
6 daily use because customers are always referred to a
7 telephone customer representative for their questions.

8 JUDGE DIPPELL: Okay. Thank you for your
9 comments.

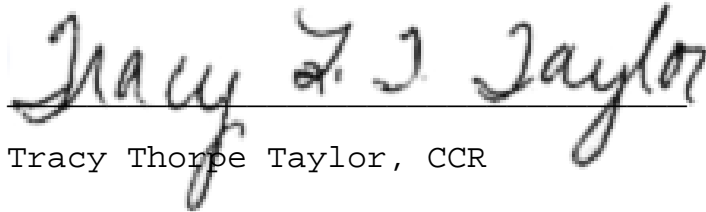
10 Is there anything else that anybody would
11 like to add?

12 Seeing none, then I believe this
13 concludes our comment hearing. I appreciate, again,
14 everyone's efforts and we can go off the record.

15 (WHEREUPON, the hearing was concluded.)
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CERTIFICATE OF REPORTER

I, Tracy Thorpe Taylor, CCR No. 939, within the State of Missouri, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.


Tracy Thorpe Taylor, CCR

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