

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

Roman Dzhurinskiy and	)	
Zinaida Dzhurinskaya,	)	
Complainants,	)	
	)	
vs.	)	Case No: EC-2016-0001
	)	
Union Electric Company, d/b/a	)	
Ameren Missouri,	)	
Respondent.	)	

**MOTION TO CONTINUE  
(4 CSR 240-2.117(D))**

COMES NOW, Union Electric Company, d/b/a Ameren Missouri (“Ameren Missouri” or “Company”), and moves the Commission to continue the deadline for responding to the Motion for Summary Determination filed in this Complaint, as follows.

Procedural Background

1. On September 14, 2015, the Office of Public Counsel filed a Motion for Summary Determination and a Memorandum of Law in support thereof, in this Complaint.
2. On September 18, 2015, the Company filed a Motion to Continue, asking the Commission to continue OPC’s Motion for Summary Determination, and the related deadlines for responses thereto, until a date determined after a pre-hearing conference, in order to allow time for discovery to be conducted.
3. On October 6, 2015, the Commission held a pre-hearing conference at which the Company’s Motion to Continue, and its request for an opportunity to conduct discovery, was taken up. The Commission ordered the parties to develop and file a proposed procedural schedule.
4. On October 7, 2015, Staff filed a Jointly Proposed Procedural Schedule on behalf of Staff, Complainants and Ameren Missouri.

5. On October 13, 2015, the Commission granted the request to issue the proposed procedural schedule, which included a November 16, 2015 deadline for Ameren Missouri to respond to OPC's Motion for Summary Determination.

6. In order to obtain discovery related to the Company's response to OPC's Motion for Summary Determination well in advance of the Company's deadline to respond, on October 15, 2015, the Company served discovery on the parties: a Request for Admissions on Complainants, data requests on Staff, and data requests on OPC. The Company also requested a subpoena and deposed a non-party on October 27, 2015.

7. Complainants have not yet responded to the Company's request for admissions, but the deadline for such response is, per Missouri Supreme Court Rule 59.01(d)(1), 30 days after service of the requests, and therefore will not be due until November 14, 2015.

8. Nearly identical data requests were served by the Company on Staff and OPC. Barring objections, Staff's and OPC's responses to the Company's data requests were due November 4, 2015. Staff objected to one of the Company's data requests, but the Company and Staff conferred and were able to resolve the objection, and Staff responded to the request as clarified by the Company. Staff timely responded to all of the other Company data requests.

9. By letter dated October 26, 2015, OPC objected to every Company data request. Counsel for the Company complied with 4 CSR 240-2.090(8), by conferring in good faith by telephone with counsel for OPC regarding the discovery dispute, on the morning of October 30th, 2015. Because the discovery dispute remained unresolved, counsel for Ameren Missouri and counsel for OPC engaged in a telephone conference with Administrative Law Judge Daniel Jordan on the afternoon of October 30th, 2015. OPC declined to withdraw any of its objections. On October 30, 2015, following the conference, Ameren Missouri filed a Motion to Compel Discovery. On November 9, 2015, OPC filed its Response to Motion to Compel Discovery.

#### Request for Continuance

10. Per 4 CSR 240-2.117(C), any response in opposition to a motion for summary determination may be filed not more than thirty (30) days after the motion for summary determination has been served.

11. Per 4 CSR 240-2.117(D), for good cause shown, the Commission may continue a motion for summary determination to allow an opposing party a reasonable time to conduct discovery as necessary to permit a response.

12. Had OPC not objected to the Company's data requests, and instead timely responded, the Company would have received the responses two weeks before the Company's deadline for responding to OPC's Motion for Summary Determination. In the event the Commission compels OPC to respond to some or all of the Company's data requests, but does not extend the time for the Company to respond to OPC's Motion for Summary Determination, the Company will have an inadequate amount of time to evaluate the responses and prepare the Company's response.

13. The Company desires that the Commission amend its October 13, 2015 Order establishing the procedural schedule, to extend the deadline for filing a response to OPC's Motion for Summary Determination. There is no compelling reason why Ameren Missouri should not be granted an extension of a reasonable amount of time after receipt of OPC's responses to the Company's data requests (if OPC is compelled to respond) in order to prepare Ameren Missouri's response to OPC's Motion for Summary Determination. For example, this is not a Complaint involving a denial of utility service, and this Complaint does not involve an operation of law date that would affect its resolution. In addition, in the event that the Complaint is ultimately resolved in Complainants' favor, the Company will credit all Rider EEIC charges that have been billed to Complainants since the tariff took effect.

14. For the foregoing reasons, good cause exists to amend the October 13, 2015 Order establishing the procedural schedule, to extend the deadline for the Company to respond to OPC's Motion for Summary Determination, until two weeks after the Company receives any responses OPC is compelled to provide, or for such other period as the Commission deems reasonable.

WHEREFORE, the Company respectfully requests that the Commission amend its October 13, 2015 Order establishing the procedural schedule, to extend the deadline for the Company to respond to OPC's Motion for Summary Determination, until two weeks after the Company receives any responses OPC is compelled to provide, or to extend the Company's deadline for responding for such other period as the Commission deems reasonable.

Respectfully submitted:

SMITH LEWIS, LLP

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to Continue was served on all the following parties via electronic mail, and additionally on Complainants via regular mail, this 12<sup>th</sup> day of November, 2015.

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