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November 29, 2000

Mr. Dale Hardy Roberts  
Executive Secretary  
Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**FILED<sup>3</sup>**  
NOV 29 2000 *nh*  
Missouri Public  
Service Commission

**RE:** Case No. EA-2000-308  
Rolla / Intercounty

Dear Mr. Roberts:

Enclosed for filing in the above-referenced proceeding please find an original and eight copies of Rolla's Response to Intercounty's Further Suggestions Regarding Its Motion to Compel.

If you have any questions, please give me a call.

Sincerely yours,

*Gary W. Duffy*  
Gary W. Duffy

Enclosures  
cc w/encl:

Ruth O'Neill, Office of Public Counsel  
Denny Frey, Office of General Counsel  
Mark Comley  
Mike Dunbar

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

**FILED<sup>3</sup>**  
NOV 29 2000  
Missouri Public  
Service Commission

In the matter of the application of the City )  
of Rolla, Missouri, for an order )  
assigning exclusive service territories and )  
for determination of fair and reasonable )  
compensation pursuant to section 386.800 )  
RSMo 1994. )

Case No. EA-2000-308

**CITY OF ROLLA/ROLLA MUNICIPAL UTILITIES'  
RESPONSE TO INTERCOUNTY'S FURTHER SUGGESTIONS  
REGARDING ITS MOTION TO COMPEL**

Comes now the City of Rolla, Missouri, ("the City"), by and through Rolla Municipal Utilities ("RMU") and its counsel, and for its response to "Intercounty Electric Cooperative Association's Further Suggestions in Support of Its Motions To Compel and Reply to the City of Rolla's Response to the Motions to Compel" respectfully states as follows:

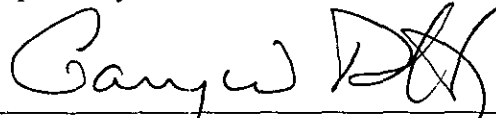
1. On or about November 27, 2000, Intercounty Electric Cooperative Association ("IEC") filed its "... Further Suggestions in Support of Its Motions To Compel and Reply to the City of Rolla's Response to the Motions to Compel."
2. RMU's response to these new claims will be very brief. IEC claims that the closed record classification is not an "absolute privilege" and that it can be waived. It asserts that RMU has waived it by filing prepared testimony referring to RMU's "business plan."
3. The law regarding waiver of a privilege is not applicable to the statutory notion of a "closed record." There is no statutory provision regarding a waiver of a "closed record." IEC cites to no case law which says such a connection can be made between the concept of waiver and the Missouri statutory provision of "closed records." Therefore, the citations made by IEC

are inapplicable to this situation.

4. IEC rests its argument on one sentence in Mr. Watkins' prepared direct testimony, and alleges that by making a reference to a "business plan," even while noting that the contents are privileged, RMU has somehow "waived the privilege." RMU notes that the prepared direct testimony of Mr. Watkins has not yet been offered into evidence. Without diminishing its argument on this issue in any fashion, RMU hereby states that when Mr. Watkins takes the witness stand to identify his prepared direct testimony, Mr. Watkins will strike the sentence on page 19 containing the reference to "business plan." Therefore, the reference will not be in his testimony to be considered by the Commission, and there can therefore no longer be any argument about the concept of waiver.

WHEREFORE, the City of Rolla/RMU prays that the Commission deny the Motions to Compel.

Respectfully submitted,



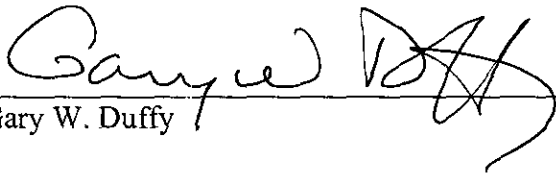
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ATTORNEYS FOR  
THE CITY OF ROLLA, MISSOURI

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was mailed or hand-delivered on November 29, 2000, to counsel for all parties of record as shown below.

  
\_\_\_\_\_  
Gary W. Duffy

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