

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

In the Matter of the application of	)	
Nickie Hertzog for a Change of Electric	)	File No. EO-2012-0343
Supplier.	)	

**Osage Valley Electric Cooperative Association  
Motion to Dismiss Application,  
or Alternatively  
to Cancel the Current Procedural Schedule  
and Order a Second Prehearing Conference**

Osage Valley Electric Cooperative Association hereby moves that the Commission dismiss Applicant Nickie Hertzog's Application for a Change of Electric Supplier, or alternatively to Cancel the current Procedural Schedule and Schedule a Second Prehearing Conference. In support of these alternative Motions, Osage Valley states as follows:

1. On September 11, 2012, the parties conducted a Prehearing Conference.
2. On October 3, 2012, the Commission issued an Order regarding Joint Status Report, which Order informed Applicant Nickie Hertzog that her Application was subject to dismissal for failure to comply with Commission Orders issued in this case.
3. On October 16, 2012 the Commission issued an Order Setting Procedural Schedule, which required Ms. Hertzog to file direct testimony in support of her Application by November 16, 2012, and which required Osage Valley, Staff, and KCPL/GMO to file rebuttal necessitated by Ms. Hertzog's direct testimony by December 14, 2012.
4. Applicant failed to file her direct testimony by November 16, 2012.

5. On November 20, 2012 the Commission on its own motion by Order Directing Filing gave Applicant an extension until November 30, 2012 to file her direct testimony.

6. Applicant failed to file direct testimony by November 30, 2012.

7. It is the Applicant's burden to support her Application with evidence. Applicant has failed to do so. She has been warned that failure to comply with the Commission Orders may result in dismissal. She was given an extension to file her testimony after she failed to file on the originally ordered date, but she failed to file by the extended date.

8. Staff, Osage Valley, and KCPL/GMO have no direct testimony to rebut. There is nothing to hear in this case. The Application cannot be sustained. It makes no sense to complete the remaining deadlines required in the Procedural Schedule if there is no evidence to hear.

8. Osage Valley hereby moves that the Application be dismissed without prejudice to the refiling thereof.

9. In the alternative, if the Commission believes dismissal to be unwarranted, Osage Valley hereby moves that the current Procedural Schedule be canceled, and that a second prehearing conference be scheduled.

Respectfully submitted,

/s/Craig S. Johnson  
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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was electronically mailed this 1st day of December, 2012, to Applicant Nickie Hertzog, PSC Staff, the Office of the Public Counsel, and Roger Steiner.

/s/Craig S. Johnson  
Craig S. Johnson