

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

Jimmie E. Small,	)	
Complainant,	)	
	)	
vs.	)	Case No: EC-2012-0050
	)	
Union Electric Company, d/b/a	)	
Ameren Missouri,	)	
Respondent.	)	

**AMEREN MISSOURI’S MOTION TO QUASH SUBPOENA DUCES TECUM**

COMES NOW, Union Electric Company, d/b/a Ameren Missouri, and for its Motion to Quash Complainant’s Subpoena Duces Tecum, states as follows:

1. In an Order issued and effective March 2, 2012 (the “Order”), the Commission clarified that the only two issues for hearing in this Complaint are (1) whether Ameren Missouri acted in accordance with applicable Missouri statutes, rules and tariffs during 2006-2008 when it disconnected electric service at Complainant’s property in Kirksville, Missouri; and (2) whether Ameren Missouri falsified documentation of Complainant’s electric service account records. The Order, at page 4, also specifically denied Complainant’s request for relief with regard to what he alleges was Ameren Missouri’s violation of 4 CSR 240-18.010 safety standards and reporting requirements, for the reason that he had not established that he was aggrieved by any such violation. The Order further specified that, “the Commission will not permit evidence or argument at the hearing relating to any other claims or theories of recovery other than the two issues stated above.”

2. Consistent with the Order, on March 12, 2012, Ameren Missouri served its timely objections and responses to “Complainant’s [Unnumbered] Request to Admit.” Request # 1 related to what Complainant refers to as the “Reconnection incident”, i.e., his allegation that Ameren Missouri violated 4 CSR 240-18.010 and unspecified provisions of the National Electric Safety Code

when it reconnected his electric utility service in December, 2007. Ameren Missouri specifically cited to the Commission's Order limiting the issues for hearing.

3. Complainant did not file a motion to compel a response to his request for admission regarding the "Reconnection incident." Instead, on May 9, 2012, Complainant served Ameren Missouri corporate representative Cathy Hart with a Subpoena Duces Tecum, a copy of which is attached hereto as **Exhibit A**, demanding that Ms. Hart personally appear before the Public Service Commission, and that she "produce to Mr. Small...by May 18, 2012...all documents, evidence which related directly or indirectly to AM MO.'s response to request to admit, part 1." In other words, Complainant is seeking information on the same irrelevant issue through the issuance of the Subpoena Duces Tecum.

4. On May 9, 2012, the same day Complainant had the subpoena issued, the Commission issued its Order Amending Procedural Schedule ("Procedural Order") re-setting the underlying Complaint for hearing and requiring that, "all requests for a subpoena for a witness or production of documents must be filed in writing with the Commission at least 20 days prior to the hearing [and] may be granted only by Michael Buchmann, the Regulatory Law Judge currently assigned to this matter." That Order further states that "no subpoena will be issued unless the requesting party can demonstrate to the Regulatory Law Judge that the witness or document requested is relevant to the two issues [for hearing]."

5. Because the Subpoena Duces Tecum served on Ameren Missouri's corporate representative regards a claim for which the Commission has specifically denied Complainant relief, and pertains to an issue on which the Commission will not permit evidence to be presented at the June 13, 2012 hearing, the Subpoena Duces Tecum is inappropriate, unreasonable and oppressive and should be quashed by the Commission pursuant to Rule 57.09(b)(1).

WHEREFORE, for the foregoing reasons, Ameren Missouri requests that the Commission quash the Subpoena Duces Tecum.

SMITH LEWIS, LLP

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**Attorney for Ameren Missouri**

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[AmerenMOService@ameren.com](mailto:AmerenMOService@ameren.com)

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to Quash was served on the following parties via electronic mail (e-mail) or via certified and regular mail on this 17<sup>th</sup> day of May, 2012.

Nathan Williams  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
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Jefferson City, MO 65102  
Nathan.williams@psc.mo.gov

Lewis Mills  
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Jimmie E. Small  
Complainant  
606 West Hwy #2  
Milton, Iowa 52570

/s/ Sarah E. Giboney  
Sarah E. Giboney

To: DATA CENTER  
MAY 09, 2012  
J.E.S.

bc

**SUBPOENA DUCES TECUM**



**RECEIVED**

MAY 09 2012

Records  
Public Service Commission

THE STATE OF MISSOURI. To KATHY HART, AMEREN MO.

You are hereby commanded to be and appear personally before The Public Service Commission of the State of Missouri or any Commissioner thereof on the Deferred day of ", " at " o'clock of that day, at DEFERRED in the County of \_\_\_\_\_, in the State of Missouri, to testify at a hearing in the matter of : \_\_\_\_\_

And that you ~~bring with you and produce at said hearing~~ produce to Mr. Small, 606 West Hwy #2, Milton, Iowa 52570

by MAY 18, 2012 produce ALL DOCUMENTS, EVIDENCE which RELATE DIRECTLY OR INDIRECTLY TO AM MO. RESPONSE TO REQUEST TO ADMIT, PART 1.  
on behalf of COMPLAINANT, and hereof fail not at your peril. The person or officer serving

this writ is commanded to have the same at the time and place aforesaid, certifying thereon its return. 12 MAR 2012 S.E. Giboney  
Given under my hand, this JES. 9th day of MAY 2012

S. REED - SECRETARY PSC  
[Name] [Title]

**RETURN**

I HEREBY CERTIFY that I have served the within writ by reading the same in the presence and hearing of the within named KATHY HART on the 9th day of May, 2012 in FOR AM MO. RESPONDENT Cole County, in the State of Missouri.

James E. Small COMPLAINANT PC NO. EC-2012-0050  
[Name] [Title]

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

RECEIVED

MAY 09 2012

Records  
Public Service Commission

Jimmie E. Small, )  
Complainant, )  
vs. ) Case No: EC-2012-0050  
Union Electric Company, d/b/a )  
Ameren Missouri, )  
Respondent. )

**AMEREN MISSOURI'S OBJECTIONS AND RESPONSES TO  
COMPLAINANT'S UNNUMBERED "REQUEST TO ADMIT"**

COMES NOW, Union Electric Company, d/b/a Ameren Missouri ("Ameren Missouri"), by and through counsel, and for its objections and responses to Complainant's Unnumbered "Request to Admit" states:

Request #1.

1. Respondent is requested to Admit that on or about December 19-20, 2007 during Respondent's Reconnection incident at Lot #23, 23067 Potter Trail, 4 CSR 240-18.010 Subpart two (2) did apply to Respondent Ameren Missouri, its agents and assigns.

**Response #1.**

**Ameren Missouri objects to Request # 1 on the grounds that the phrase, "Reconnection incident" is vague and ambiguous, and on the grounds that the request is completely irrelevant to the only two issues for hearing pursuant to the Commission's March 2, 2012 Order Denying Motions and Setting Procedural Schedule: (1) whether Ameren Missouri acted in accordance with applicable Missouri statutes, rules and tariffs during 2006—2008 when it disconnected electric service at Mr. Small's property in Kirksville, Missouri and (2) whether Ameren Missouri falsified documentation of Mr. Small's electric service account**

**records. Subject to and without waiving said objection, Ameren Missouri admits that as an electric utility subject to regulation by the Public Service Commission, it is required to comply with the safety standards set forth in 4 CSR 240-18.010, including subpart (2) thereof.**

Request #2.

2. Respondent is requested to admit that on or about December 19-20, 2007 alleged Reconnection of Electrical Utility, LOT #23, no request for reconnection was maintained within any account identification number in which Complainant Small [is now] responsible.

Response #2.

**Ameren Missouri objects to Request # 2 on the grounds that the phrase, “no request for reconnection was maintained within any account identification number” is vague and ambiguous, and on the ground that the request is irrelevant to the only two issues for hearing pursuant to the Commission’s March 2, 2012 Order Denying Motions and Setting Procedural Schedule: (1) whether Ameren Missouri acted in accordance with applicable Missouri statutes, rules and tariffs during 2006—2008 when it disconnected electric service at Mr. Small’s property in Kirksville, Missouri and (2) whether Ameren Missouri falsified documentation of Mr. Small’s electric service account records. Subject to and without waiving said objection, Ameren denies Complainant’s Request #2 and states that Ameren Missouri’s records reflect that on December 19, 2007, Mr. Small made a payment in the amount of \$130.00, the amount Ameren Missouri had advised would be required to restore his electric service, and Mr. Small called Ameren Missouri and discussed information related to reconnection and provided his then-current mailing address.**

Request #3

3. Respondent Utility is requested to Admit that Safety Standards, and verification of Main Circuit Breaker measures were overlooked during the alleged incident of reconnection procedures.

**Response # 3**

**Ameren Missouri objects to Request #3 on the grounds that it is vague and ambiguous, and completely irrelevant to the only two issues for hearing pursuant to the Commission's March 2, 2012 Order Denying Motions and Setting Procedural Schedule: (1) whether Ameren Missouri acted in accordance with applicable Missouri statutes, rules and tariffs during 2006—2008 when it disconnected electric service at Mr. Small's property in Kirksville, Missouri and (2) whether Ameren Missouri falsified documentation of Mr. Small's electric service account records. Subject to and without waiving said objection, Ameren Missouri denies Request # 3.**

Request #4

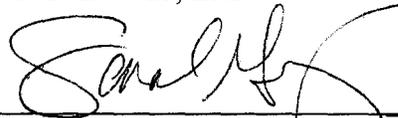
4. Respondent is requested to admit that Cathy Hart, Breeze Benton and other Respondent agents have no evidence or elements of proof now available to establish that Chapter 18, American National Standard, National Electric Safety Code (NESC) were met by Respondent, on December 19-20, 2007, [Incident] LOT # 23 LOCATION, 23067 Potter trail, Kirksville, Mo. 63501

**Response #4**

**Ameren Missouri objects to Request #4 on the grounds that the request that Respondent admit that "...Respondent agents have no evidence or elements of proof" improperly seeks work product, that the request in its entirety is vague and ambiguous, and the request is irrelevant to the only two issues for hearing pursuant to the**

**Commission's March 2, 2012 Order Denying Motions and Setting Procedural Schedule: (1) whether Ameren Missouri acted in accordance with applicable Missouri statutes, rules and tariffs during 2006—2008 when it disconnected electric service at Mr. Small's property in Kirksville, Missouri and (2) whether Ameren Missouri falsified documentation of Mr. Small's electric service account records. Subject to and without waiving said objection, Ameren Missouri denies Request # 4.**

SMITH LEWIS, LLP



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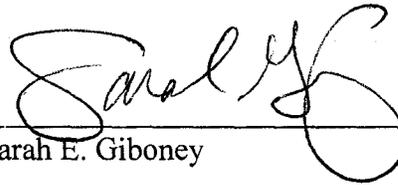
By: /s/ Wendy K. Tatro

**Wendy K. Tatro, # 60261**  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of Ameren Missouri's Objections and Responses to Complainant's Unnumbered Request to Admit were served on Jimmie Small via certified and regular mail on this 12<sup>th</sup> day of March, 2012.

Jimmie E. Small  
Complainant  
3535 Locust St.  
General Delivery  
Quincy, Illinois 62301



Sarah E. Giboney