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June 14, 2002

Via Federal Express

Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
200 Madison Street, Suite 100
Jefferson City, Missouri 65101

Re: MPSC Case No. EC-2002-112

Dear Judge Roberts:

Enclosed you will find an original and nine copies of the Respondents' Motion to Compel.

Please file the original and eight copies of this pleading with the Commission and return the extra copy file-stamped to me in the enclosed self-addressed stamped envelope.

As you will see, this motion to compel relates to complainants' responses and objections to respondents' data request, which we discussed in our conference call yesterday. I am hopeful that the conference call will serve to resolve the issues raised by the motion. If that is the case, respondents will, of course, withdraw the motion. If it does not, we will have begun the process by getting the motion on file.

If anything further is needed to file this pleading, please let me know.

Yours very truly,

HERZOG, CREBS & MCGHEE, LLP



Michael A. Vitale

MAV/mh
Enclosure

cc: Freeman R. Bosley, Jr. (via hand delivery)
Steve Dottheim (via first class mail)
John Coffman (via first class mail)

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

STERLING MOODY, STERLING'S MARKET
PLACE AND STERLING'S PLACE, I,

Complainants,

v.

AMERENUE, UNION ELECTRIC CO. d/b/a
AMERENUE, and MIKE FOY, LEROY ETTLING,
and SHERRY MOSCHNER, as employees of
AmerenUE,

Respondents.

Case No. EC-2002-112

**RESPONDENTS' MOTION TO COMPEL
AND REQUEST FOR EXPEDITED TREATMENT**

Come now respondents, and for their Motion to Compel and Request for Expedited Treatment state as follows:

1. On May 8, 2002, respondents served on complainants Respondents' Data Request Nos. 1-39. A copy of said Data Request is attached hereto as Exhibit A.
2. Pursuant to 4 CSR 240-2.090(2), objections to the Data Request were due by May 20, 2002 and a response was due by May 28, 2002.
3. On June 5, 2002, respondents received Complainants' Responses to Respondents' Data Request. A copy of Complainants' Responses is attached hereto as Exhibit B.
4. Both the responses and the objections contained in the responses were untimely pursuant to 4 CSR 240-2.090(2). As a result, those objections have been waived and complainants should be required to respond fully and without delay to any data request to which an objection was untimely made. This includes complainants' objections to Data Request Nos. 10, 12, 13, 14, 36 and 38.

5. On June 6, 2002, counsel for respondents wrote counsel for complainants in an attempt to resolve complainants' objections as well as to identify certain responses which were inadequate or insufficient. A copy of respondents' June 6 letter is attached hereto as Exhibit C.

6. On June 10, 2002, complainants responded to respondents' letter and enclosed Supplemental Responses. A copy of complainants' June 10 letter and Supplemental Responses is attached hereto as Exhibit D.

7. By letter dated June 11, 2002, respondents' replied to complainants' June 10 letter and Supplemental Responses, stating essentially that the Supplemental Responses were unsatisfactory. A copy of respondents' June 11 letter is attached hereto as Exhibit E.

8. On June 13, 2002, a telephone conference was held between counsel for complainants and respondents and Judge Roberts, pursuant to 4 CSR 240-2.090(8)(B), in an effort to resolve the issues identified in Exhibits A through E. As a result of that conference call, a partial resolution of these issues was achieved. Attached hereto as Exhibit F is a June 14 letter from respondents to complainants confirming the agreements reached during the conference call.

9. Due to the fact that this matter is set for hearing beginning July 8, 2002, and due to the fact that even after the conference call, there remain potentially unresolved issues as to complainants' responses and objections, respondents are filing this motion to compel and request for expedited treatment. In the event these issues are resolved between the parties, respondents will withdraw the motion to compel.

10. As of the date of this motion, the following issues remain unresolved (references are to numbers in respondents' Data Request):

10. As previously noted, complainants' objection to this request was untimely and has therefore been waived. In addition, in their Complaint, Direct Testimony and responses to the Data Request, complainants have consistently stated their inability to pay bills for electric service from respondent AmerenUE was due to overcharging and improper billing charges by AmerenUE. Respondents' request for information as to whether other utilities disconnected service to complainants is relevant and calculated to lead to the discovery of admissible evidence, i.e., that there were numerous unrelated reasons why complainants were unable to pay AmerenUE's bills for service.
12. As previously noted, complainants' objection to this request was untimely and has therefore been waived. In addition, in their Complaint, Direct Testimony and responses to the Data Request, complainants have consistently stated their inability to pay bills for electric service from respondent AmerenUE was due to overcharging and improper billing charges by AmerenUE. Respondents' request for financial statements and other similar documents relating to the management, operation and ownership of the store by complainants is relevant and calculated to lead to the discovery of admissible evidence, i.e., that there were numerous unrelated reasons why complainants were unable to pay AmerenUE's bills for service.
13. As previously noted, complainants' objection to this request was untimely and has therefore been waived. In addition, in their Complaint, Direct Testimony and responses to the Data Request, complainants have consistently stated their inability to pay bills for electric service from respondent AmerenUE was due to overcharging and improper billing charges by AmerenUE. Respondents' request for information as to federal, state and local tax liens arising from the operation of the store is relevant and calculated to lead to the discovery of admissible evidence, i.e., that there were numerous reasons why complainants were unable to pay AmerenUE's bills for service.
14. As previously noted, complainants' objection to this request was untimely and has therefore been waived. In addition, in their Complaint, Direct Testimony and responses to the Data Request, complainants have consistently stated their inability to pay bills for electric service from respondent AmerenUE was due to overcharging and improper billing charges by AmerenUE. Respondents' request for information as to loans received by complainants related to their operation of the store is relevant and calculated to lead to the discovery of admissible evidence, i.e., that there were numerous reasons why complainants were unable to pay AmerenUE's bills for service.

16. Complainants did not object to respondents' request for the specific terms of the constructive payment arrangement which is alleged in their Complaint, they simply failed to respond to the request. If complainants are contending that AmerenUE breached some agreement or arrangement between the parties, respondents are entitled to know what complainants allege that the terms of that arrangement were.
26. Complainants did not object to respondents' request for the specific tariffs, statutes and regulations complainants contend respondents violated, they simply failed to respond to the request and cited to 53 pages from AmerenUE's tariff. If complainants are contending that AmerenUE violated any tariffs, statutes or regulations, respondents are entitled to know specifically what they are.
- 34, 35. All respondents are trying to do with respect to these requests is confirm that all responsive documents have been produced. Complainants, after partially responding to the requests in their initial responses, made an untimely objection to Request No. 35 in the Supplemental Responses and failed to clarify their response to Request No. 34. The response to both requests is inadequate and respondents only seek confirmation that all responsive documents have been produced.
36. As previously noted, complainants' objection to this request was untimely and has therefore been waived. In addition, in their Complaint, Direct Testimony and responses to the Data Request, complainants have consistently stated their inability to pay bills for electric service from respondent AmerenUE was due to overcharging and improper billing charges by AmerenUE. Respondents' request for information as to lawsuits to which complainants have been or are a party and which involved the grocery store are relevant and calculated to lead to the discovery of admissible evidence, i.e., that there were numerous unrelated reasons why complainants were unable to pay AmerenUE's bills for service.
38. As previously noted, complainants' objection to this request was untimely and has therefore been waived. In addition, in their Complaint, Direct Testimony and responses to the Data Request, complainants have consistently stated their inability to pay bills for electric service from respondent AmerenUE was due to overcharging and improper billing charges by AmerenUE. Respondents' request for documents relating to communications with potential investors in the grocery store is relevant and calculated to lead to the discovery of admissible evidence, i.e., that there were numerous unrelated reasons why complainants were unable to pay AmerenUE's bills for service.

11. The undersigned counsel for respondents certifies, pursuant to 4 CSR 240-2.090 (8)(A), that he has conferred in good faith with opposing counsel in an attempt to resolve the issues set forth in this motion. Said efforts are confirmed in Exhibits C through F hereto.

12. As the hearing of this matter is scheduled for July 8, 9 and 10, respondents respectfully request expedited consideration of their motion pursuant to 4 CSR 240-2.080(16) and that a ruling be made no later than June 21, 2002. The parties will be benefited by expedited treatment to the extent it will allow discovery to be completed so the hearing dates will not be disturbed. There will be no negative effect on respondent AmerenUE's customers or the general public if such action is taken. Respondents further state this motion is being filed as soon as practicable following the conference call required by 4 CSR 2-090(8)(B).

WHEREFORE, good cause having been shown, respondents respectfully request that all of complainants' objections to respondents' Data Request be stricken as having been waived and that complainants be ordered to respond fully to respondents' Data Request Nos. 10, 12, 13, 14, 16, 26, 34, 35, 36 and 38, as set forth herein, and for such other and further relief as is deemed just and proper.

HERZOG, CREBS & McGHEE, LLP

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Attorneys for Respondents AmerenUE,
Union Electric Co d/b/a AmerenUE,
Mike Foy, Leroy Ettling and Sherry
Moschner

Certificate of Service

The undersigned hereby certifies that a copy of Respondents' Motion to Compel and Request for Expedited Treatment was mailed first class, postage prepaid this 14th day of June 2002 to Office of Public Counsel, P.O. Box 7800, Jefferson City, Missouri 65102, Office of General Counsel, Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102 and sent via facsimile and first class mail to Freeman Bosley, Jr., 1601 Olive Street, First Floor, St. Louis, Missouri 63103-2344, attorney for complainants.



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

STERLING MOODY, STERLING'S MARKET
PLACE AND STERLING'S PLACE, I,

Complainants,

v.

AMERENUE, UNION ELECTRIC CO. d/b/a
AMERENUE, and MIKE FOY, LEROY ETTLING,
and SHERRY MOSCHNER, as employees of
AmerenUE,

Respondents.

Case No. EC-2002-112

**RESPONDENTS' DATA REQUEST NOS. 1- 39
DIRECTED TO COMPLAINANTS STERLING MOODY, ET AL.**

1. Identify the date on which Sterlings Marketplace I, Inc. acquired ownership of the grocery store at 8350 North Broadway (the "Store"), the manner in which ownership was acquired and from whom.
2. Identify the date the Store was opened under the ownership of Sterlings Marketplace I, Inc. and the date it was last open under the ownership of Sterlings Marketplace I.
3. Identify all dates the Store was closed between the two dates identified in response to Data Request No. 2 for reasons other than holidays and other regular closings, and state the reasons for each closing.
4. Identify the date when any of the complainants first began managing or operating the Store.
5. Produce all lease agreements (including amendments and extensions) between complainants and P&B Real Estate, LLC, or with any other lessors, concerning the Store.
6. Produce all bills received by complainants for electric service to the Store.
7. Identify all payments made by complainants for electric service to the Store from July 1, 1998 to the date of this Data Request.

EXHIBIT A

8. Identify, by amount, date and financial institution, all checks with which complainants paid for electric service to the Store, which checks were later returned for insufficient funds.
9. Produce all checks with which complainants paid for electric service to the Store, which checks were later returned for insufficient funds.
10. Identify all dates between July 1, 1998 and November 12, 2001 that the Store was without utility service of any kind (i.e., electric, gas, telephone or water) and, for each date, identify the utility that was not providing service to the Store and the reason therefor.
11. Produce all notices of disconnection of electric service to the Store which were served on or delivered to complainants, or otherwise received by complainants.
12. Produce all financial records and financial statements relating to the management, operation and ownership of the Store by complainants.
13. Identify, by amount, date and taxing authority, all federal, state or local tax liens arising from the operation of the Store from July 1, 1998 to the date of this Data Request.
14. Identify, by date, lender and amount, all loans received by complainants related to the operation of the Store from July 1, 1998 to the date of this Data Request.
15. Produce all documents containing or relating to any agreement by respondent AmerenUE to accept partial payment from complainants for electric service to the Store.
16. Identify each and every term of the constructive payment arrangement as alleged in paragraph 13 of the Complaint.
17. With respect to the constructive payment arrangement as alleged in paragraph 13 of the Complaint, identify the date the arrangement was created and whether respondents complied with the terms of the arrangement from that date until April 13, 2001.
18. Identify what payments by complainants for electric service to the Store were misapplied, as alleged in paragraph 27 of the Complaint, and, for each such payment, identify the date, the amount and how the payment was misapplied.
19. Produce all documents relating to the negotiation and execution of the Agreement between respondent AmerenUE, complainant Sterlings Marketplace I, Inc. and P&B Real Estate, LLC as evidenced in the letter dated May 18, 2001 and signed by those three parties.

20. Produce all documents relating to the meeting which occurred at the offices of respondent AmerenUE on May 15, 2001 to discuss respondent AmerenUE's bills for electric service to the Store.
21. Produce all documents relating to or concerning respondent AmerenUE's agreement with complainants to provide electric service to the Store in July 1998, as alleged in paragraph 4 of the Complaint.
22. Identify the date of the agreement identified in Data Request No. 21 and the persons who discussed and/or negotiated that agreement.
23. Identify the nature and cause of the incorrect meter readings and improper billings for electric service to the Store, as alleged in paragraph 6 of the Complaint.
24. Produce all documents relating to or concerning any incorrect meter readings or improper billings for electric service to the Store, as alleged in paragraph 6 of the Complaint.
25. Identify all actions taken by complainants or any other person to correct or release the incorrect meter readings or improper billings for electric service to the Store, as alleged in paragraph 6 of the Complaint.
26. Identify any statutes, regulations or tariffs (or any other written document) which make respondents responsible to correct or resolve the incorrect meter readings and improper billings for electric service to the Store, as alleged in paragraph 6 of the Complaint.
27. Identify the amount of respondent AmerenUE's bills for electric service to the Store for which complainants contend they are not responsible due to any incorrect meter readings or improper billing, as alleged in paragraph 6 of the Complaint.
28. Identify any other reasons why complainants contend they are not responsible for respondent AmerenUE's bills for electric service to the Store and, for each such reason, identify the amount and date of the bills for which respondents contend they are not responsible.
29. Identify for which of the three meters identified in paragraph 4 of the Complaint there were incorrect meter readings or improper billings for electric service to the Store, and the dates of such incorrect meter readings and improper billings.
30. Identify all reasons for complainants' financial difficulty in making full payment of the bills received for electric service to the Store, as alleged in paragraph 9 of the Complaint.

31. Identify, by date, amount and meter, what portion of the bills for electric service received by complainants were for electric service not directly attributable to the Store, as alleged in paragraph 9 of the Complaint.
32. Produce all documents relating to or concerning the fact that complainants received bills for electric service not directly attributable to the Store, as alleged in paragraph 9 of the Complaint.
33. Identify all reasons for complainants' financial difficulty in satisfying the amounts due on its monthly bills for electric service to the Store, as alleged in paragraph 11 of the Complaint.
34. Produce all documents containing or relating to communications between complainants and respondents.
35. Produce all documents containing or relating to communications between complainants and any other party relating to electric service provided to the Store and respondent AmerenUE's bills for such service, including, but not limited to, communications among and between the following:
 - a. complainants,
 - b. P&B Real Estate, LLC,
 - c. Bert Schonlau,
 - d. Congressman William L. Clay, Jr.,
 - e. State Representative Louis Ford,
 - f. Gateway Bank (including Brian McNamara and Mark Kasen),
 - g. the Missouri Department of Economic Development (including Joe Driscoll, Dennis Roedemier and Bill Borgmeyer),
 - h. the Office of the Governor Bob Holden (including Julie Gibson and Lorissa Hawkins),
 - i. Allegiant Bank,
 - j. Zeyad "Steve" Abdel-Jabbar, and
 - k. former State Senator J.B. Jet Banks.
36. Identify, by case style, court and case number, all lawsuits concerning the Store in which one or more of the complainants was a party from July 1, 1998 to the date of this Data Request.
37. Produce all documents relating to complainants' actions as a pay station of respondent AmerenUE.
38. Produce all documents containing or relating to discussions with potential investors in the Store or in Sterlings Marketplace I, Inc. from July 1, 1998 to the date of this Data Request.

39. Produce copies of all contracts, invoices or other written documents reflecting damages or losses suffered by complainants as a result of being without electric service at the Store.

HERZOG, CREBS & McGHEE, LLP

By:



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Attorneys for Respondents AmerenUE,
Union Electric Co d/b/a AmerenUE,
Mike Foy, Leroy Ettling and Sherry
Moschner

Certificate of Service

The undersigned hereby certifies that a copy of Respondents' Data Request No. 1 - 39 Directed to Complainants Sterling Moody, Et Al. was sent by first class mail postage prepaid this 8th day of May 2002 to John B. Coffman, Office of Public Counsel, P.O. Box 7800, Jefferson City, Missouri 65102, Steve Dottheim, Office of General Counsel, Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102 and hand-delivered on the 8th day of May 2002 to Freeman Bosley, Jr., 1601 Olive Street, First Floor, St. Louis, Missouri 63103-2344, attorney for complainants.

Michael Attale

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Sterling Moody, Sterling's Market Place,
And Sterling's Place, I

Complainants,

v.

AmerenUE, Union Electric Co. d/b/a
AmerenUE; and Mike Foy, Leroy Ettling,
And Sherry Moshner, as employees of
AmerenUE,

Respondents.

Case No.: EC 2002-112

**COMPLAINANTS' RESPONSES
TO RESPONDENTS' DATA REQUEST
DIRECTED TO COMPLAINANTS STERLING MOODY, ET AL.**

Come Now Complainants and in response to Respondents' Data Request states the following:

1. September 19, 1999.
2. October 8, 2001.
3. January 18, 2000 through March 14, 2000, closed due to fire.
4. Complainants began managing the operations of Sterling's Market Place on

September 19, 1999.

5. Complainant is in the process of obtaining a copy of the lease concerning P&B Real Estate. Complainant objects to producing any other leases on the grounds that it is immaterial and irrelevant.

6. See Attachment A.

7. From July 1, 1998 through September 1999, all payments were made by Broadway Supermarket. For payments from September 1999 through November 2001. See Attachment B.

8. Complainant does not have the returned checks requested but stipulates to issuing the returned checks produced by Respondent as of this Request.

9. See Response to Request number 8.

10. Electric service was disconnected on April 10, 2001 for 3 hours. Electric service was disconnected on April 17 for 31 days. Complainant objects to data request for all other utilities on grounds that such request is not relevant to this case.

11. See Attachment C.

12. Complainant objects to this Request on the grounds that financial records will only become relevant in assessing damages against the Respondent.

13. Complainant objects to this Request on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

14. See Response to Request number 13.

15. See Respondent Leroy Ettling's rebuttal testimony Schedules 1, 13, 14, 15, and 16.

16. See Response to Request number 15 and the direct testimony of Complainant Sterling Moody.

17. The arrangement began when Respondent Ettling started contacting Complainant on or about October 7, 1999 and continued until Respondents wrongfully terminated Complainant's electric service.

18. See Attachment D.
19. See rebuttal testimony of John F. McKenna, Schedule 1.
20. See Response to Request number 19.
21. Complainants do not have any documents. The account was set up pursuant to the procedure described by Mike Foy in his deposition dated April 4, 2002, page 8, lines 23-24.
22. See Response to Request number 21.
23. Complainant's billing for usage of electric service was incorrect because it included usage of tenants in the mall. The building was already wired when Complainants moved in.
24. See rebuttal testimony of Leroy Ettling, Schedule 10.
25. See rebuttal testimony of Leroy Ettling, Page 12, line 13, and page 13, lines 11-21.
26. Respondents violated PSC Mo. Ill C.C. IACC Schedule No. 5, General Rules and Regulations, Article V Billing Practices and Schedule No. 5 Article IV.
27. One Hundred Seventy Six Thousand Dollars (\$176,000.00).
28. Complainants put Respondent on notice beginning March 14, 2000 and several times thereafter. See Response to Request number 27.
29. Complainant was not able to determine which meter readings resulted in the overbilling.
30. The bills were too high due to improper billing charges by Respondent.
31. Complainants were not able to determine which meter reading resulted in overbilling.

32. See Attachment E.
33. The bills were too high due to improper billing charges of Respondents.
34. Previously produced. See all exhibits and attachments and schedules filed by Complainants and Respondents.
35. See Attachment F.
36. Complainant objects to this Request on the grounds that said Request is irrelevant and immaterial.
37. See Respondents' rebuttal testimony of Franklin P. Lefler, Schedules 1 and 2.
38. Complainant objects to this Request on the grounds that it is irrelevant and immaterial.
39. See Complainants' damage model produced to Respondents.

Respectfully submitted,

CALDWELL & SINGLETON, LLC



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*Attorneys for Complainants
Sterling Moody, Sterling's Market Place
And Sterling's Market Place, I*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served via first class, U.S. mail on this 5th day of June, 2002 to all parties of record listed below.

CASE NO. EC-2002-112

General Counsel
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

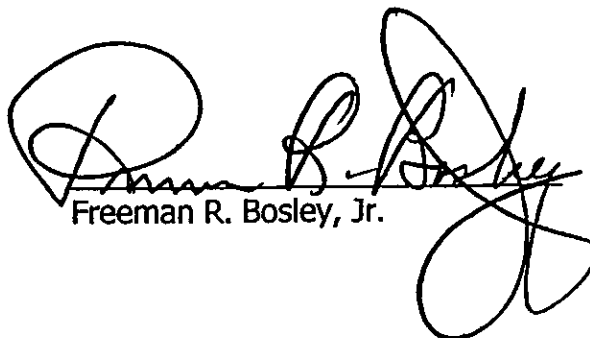
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June 6, 2002

Via Facsimile

Freeman Bosley, Jr.
Caldwell & Singleton, LLC
1601 Olive Street, First Floor
St. Louis, Missouri 63103-2344

Re: Sterling Moody, et al. v. AmerenUE, et al.

Dear Freeman:

I am in receipt of Complainants' Response to Respondents' Data Request Directed to Complainant Sterling Moody, et al., which was delivered to my office yesterday afternoon. Unfortunately, the response contains multiple objections. Pursuant to 4 CSR 240-2.090(2), any objections to AmerenUE's data request were due on May 20. As your objections are 16 days late, whatever their merits may be (and I do not concede they have merit), those objections have been waived.

Even beyond the application of the ten day rule, the response itself was filed 8 days late without any request having been for an extension of time. For this reason also, the objections have been waived.

The response is also deficient in a number of respects, as follows:

- a. The lease between P&B Real Estate and Sterling's Marketplace has not been provided. The response states you are in the process of obtaining a copy of it. Please advise when we can expect to receive it.
- b. The response to No. 17 is incomplete. In addition to asking about the terms of the "constructive payment arrangement" the complainants have alleged existed, the request asks whether respondents complied with the terms of that arrangement from the date it was created (which you now contend was October 7, 1999) until April 13, 2001. Please provide a complete answer to this request.
- c. Request No. 18 asked that all misapplied payments be identified and a statement as to how those payments were misapplied. In response, you

EXHIBIT C

HERZOG, CREBS & MCGHEE, LLP
ATTORNEYS AT LAW

Freeman Bosley, Jr.
June 6, 2002
Page 3

Please accept this letter as our demand that you fully respond to the data request by the close of business on Monday, June 10. If you are not willing to do so, please call me immediately to discuss how these issues might be resolved. If we are unable to come to an agreement, I intend to call Judge Roberts to schedule a telephone conference to bring these issues to his attention.

Please note that as a result of your failure to fully respond to the data request, we still cannot schedule the depositions of Mr. Moody, Mr. McNamara and Mr. Biernbaum. Depending on when we receive that complete response, and take the depositions of these three witnesses, it is possible we will request a continuance of the hearing scheduled for July 8.

Yours very truly,

HERZOG, CREBS & MCGHEE, LLP


Michael A. Vitale

MAV/mh

cc: Steve Dottheim (via fax)
John Coffman (via fax)

Caldwell & Singleton, LLC

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Richard N. Singleton, Jr.*
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Of Counsel:
Freeman R. Bosley, Jr.
LaRee M. DeFreese

Janet Holbrook, R.N.
*Also Licensed in Illinois
**Also Licensed in Virginia
†† Also a Registered Nurse

June 10, 2002

Via Facsimile

Michael J. Vitale
Attorney at Law
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One City Centre, 24th Floor
St. Louis, MO 63101

RE: Moody, et al. v. AmerenUE, et al.

Dear Mr. Vitale:

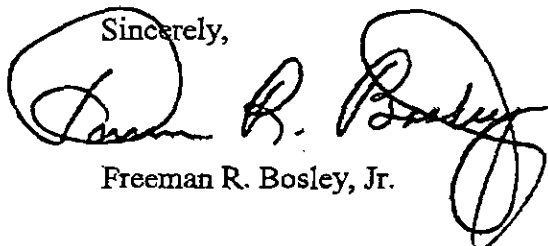
Enclosed please find Complainants' Supplemental Responses to the June 6, 2002 letter that you sent. In regards to your position that the objections raised by Complainants in their response to your data request are deemed waived because they were filed out of time, please be advised that I don't believe that it is position of the PSC Commission or 4 CSR 240-2.09(2) that objections to data requests deemed to be irrelevant or immaterial to the case at hand should be waived.

Also in regards to your comments about your unreadiness to take the depositions of Mr. Moody, Mr. Biernbaum and Mr. McNamara, please note that you have had an opportunity to schedule these depositions since the filing of Complainants' direct testimony on April 24, 2002. These individuals were ready then and they are ready now. We see no reason why this should affect your ability to prepare for the hearing as

EXHIBIT D

scheduled. If for any of these reasons you see a need to call Judge Roberts to schedule a telephone conference, please let me know as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Freeman R. Bosley, Jr.", with a large, stylized flourish at the end.

Freeman R. Bosley, Jr.

FRB/krt

Enclosures

Cc: Steve Dottheim (via facsimile)
John Coffman (via facsimile)

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Sterling Moody, Sterling's Market Place,
And Sterling's Place, I

Complainants,

v.

AmerenUE, Union Electric Co. d/b/a
AmerenUE; and Mike Foy, Leroy Ettling,
And Sherry Moshner, as employees of
AmerenUE,

Respondents.

Case No.: EC 2002-112

**COMPLAINANTS' SUPPLEMENTAL RESPONSES
TO RESPONDENTS' DATA REQUEST NUMBERS 1-39
DIRECTED TO COMPLAINANTS STERLING MOODY, ET AL.**

Come Now Complainants, Sterling Moody, Sterling's Market Place and Sterling's Place I,
and for their supplemental response to Respondent's Data Request, states the following:

5. Complainant Sterling Moody will provide copy of the lease on June 11, 2002.

17. Respondents complied with the terms of the constructive payment arrangement
until Respondents wrongfully terminated Complainants electric service on April 10, 2001 and
April 17, 2001.

18. Complainant has never maintained that money was not owed for electrical
service. Rather, it has been Complainant's position that Respondent issued bills to Complainant
that included usage of electric service by other tenants in the mall and previous balances from
other unrelated occupants. As proof of the misapplication of the payments, Sherry Moschner
adjusted the total amount claimed owed by this Complainant downward from \$265,000 to
\$89,000. See agreement dated May 18, 2001. Lefler's Rebuttal Testimony, Schedule 8.

21.& 22. Complainant is not possession of any documents relating to the initial provision of electric service. An employee of Broadway Supermarket, Inc. Contacted Respondent and requested service. Service was turned on in July, 1998.

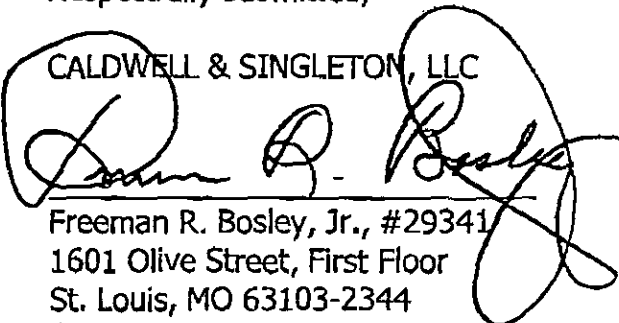
28. This question is redundant and is the same as number 18. Please see answer to number 18.

34. Previously produced. See all exhibits and attachments and schedules filed by Complainants and Respondents.

35. The question is ambiguous, compounded and very unclear.

Respectfully submitted,

CALDWELL & SINGLETON, LLC



Freeman R. Bosley, Jr., #29341
1601 Olive Street, First Floor
St. Louis, MO 63103-2344
(314) 421-0077
(314) 421-5377 Facsimile

*Attorneys for Complainants
Sterling Moody, Sterling's Market Place
And Sterling's Market Place, I*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served via first class, U.S. mail on this 10th day of June, 2002 to all parties of record listed below.

CASE NO. EC-2002-112

General Counsel
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

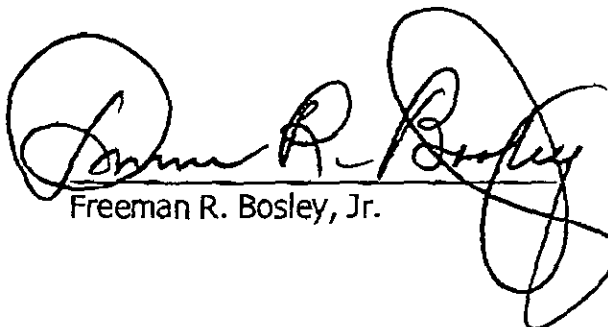
Steve Dottheim
Victoria Kizito
Associate General Counsel
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Freeman R. Bosley, Jr.

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BELLEVILLE, ILLINOIS 62226-4797
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June 11, 2002

Via Facsimile

Freeman Bosley, Jr.
Caldwell & Singleton, LLC
1601 Olive Street, First Floor
St. Louis, Missouri 63103-2344

Re: Sterling Moody, et al. v. AmerenUE, et al.

Dear Freeman:

I have reviewed your June 10 letter and amended response and, unfortunately, do not find them to be a satisfactory response to my June 6 letter.

First, I do not believe it is the Public Service Commission's position that the requirements and deadlines of 4 CSR 240-2.090(2) are meaningless and not enforced. Even beyond this point, I do not believe your objections are well taken. Thus, even if Judge Roberts allows the objections despite their untimeliness, I still intend to take them up with him.

With respect to your comments about the depositions, I served my data request to insure that we would have enough time to receive and review your client's response and documents and to then take the depositions. As that response was late and as you have not responded to the entire request, we have been unable to schedule the depositions.

As to your amended response, which I understand is intended to address the specific issues raised in my letter, I accept your response to subparagraphs a, b, c and d. My questions as set out in subparagraphs e, f and g remain unanswered and I intend to raise these issues also with Judge Roberts. I am particularly concerned about your statement in response to Request No. 35 which very simply asks for copies of all written communications between your clients and any third parties concerning AmerenUE's electric service and bills. The request is by no means "ambiguous, compounded and very unclear." If you have no documents, simply say so. If you do, please produce them and do not hide behind an objection which was not made to the original response.

EXHIBIT E

MICHAEL A. VITALE
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June 14, 2002

Via Facsimile

Freeman Bosley, Jr.
Caldwell & Singleton, LLC
1601 Olive Street, First Floor
St. Louis, Missouri 63103-2344

Re: Sterling Moody, et al. v. AmerenUE, et al.

Dear Freeman:

This letter will summarize the agreements we reached on the telephone yesterday with respect to AmerenUE's data request as well as some other issues that came up during our conference call.

First, with respect to the data request; and your objections, I understood Judge Roberts to indicate that the Commission as a practice applies the ten day rule for objections set out in the CSR. The logical result of this is that your objections, which were untimely, have been waived. Putting that aside, however, I am hopeful we can resolve these objections based upon our discussion yesterday.

Our discussions as to the specific objection you raised and questions I have about your responses are as follows (the numbers reference the specific data request):

5. You have confirmed that there were no other leases between the complainants and any lessor with respect to the real property at 5340 North Broadway except for the lease with P&B which you provided yesterday. Any other leases that may have existed relate solely to personal property, such as cash registers, shelving and equipment, etc.
10. You have agreed to withdraw your objection to this request and to answer with respect to all utilities which provide service to the store, not just electric service.

EXHIBIT F

HERZOG, CREBS & MCGHEE, LLP
ATTORNEYS AT LAW

Freeman Bosley, Jr.
June 14, 2002
Page 2

- 12-14. You have agreed to discuss with your clients whether they would be willing to provide the requested information and documents. As we discussed yesterday, I believe the request is reasonably calculated to lead to admissible evidence and if you do not withdraw your objection, we will have to file a motion to compel in short order.
16. You agreed to identify the terms of the constructive payment arrangement your clients allege existed between them and AmerenUE. As you know, we are looking here for specific terms, not just a general reference to Mr. Moody's direct testimony.
26. You have agreed to consider whether to amend your response to identify the specific tariff provisions identified in your Complaint. I would accept that response. Failing that, I repeat my request that you respond with specificity as to the tariffs you contend AmerenUE violated rather than simply reference 53 pages of tariffs, most (if not all) of which are irrelevant to this case.

During our discussion, Judge Roberts indicated that we could seek the assistance of the PSC staff or Mr. Dottheim on some of these issues. We would certainly be willing to do that but it would have to be done promptly.

34. As I understand it, you have confirmed the only documents responsive to this request are those found attached to the testimony filed by the parties. That is the basis for your use of the term "previously produced" in response to this request. If my understanding is incorrect, or if you have other documents responsive to this request which have not been produced, please let me know immediately.
35. As I understand it, the only documents responsive to this request are the two attached to your response as Attachment F. If my understanding is incorrect, or if you have other documents responsive to this request which have not been produced, please let me know immediately.
36. You have agreed to discuss with your clients whether they would be willing to provide the requested information and documents. As we discussed yesterday, I believe the request is reasonably calculated to lead to admissible evidence and if you do not withdraw your objection.

HERZOG, CREBS & MCGHEE, LLP
ATTORNEYS AT LAW

Freeman Bosley, Jr.

June 14, 2002

Page 3

38. You have agreed to discuss with your clients whether they would be willing to provide the requested information and documents. As we discussed yesterday, I believe the request is reasonably calculated to lead to admissible evidence.

You mentioned yesterday that there might be some additional documents that your clients may have responsive to some of these requests. I urge you to produce any such document as soon as possible so we have them before we take the depositions of Mr. Moody, Mr. Biernbaum and Mr. McNamara.

If I have misstated any of our discussions on the telephone yesterday with Judge Roberts, please let me know immediately so I can respond accordingly.

Another thing we discussed yesterday with Judge Roberts was the possibility of agreeing that certain witnesses who have submitted written testimony need not appear at the hearing in Jefferson City. Please review the rebuttal testimony we have filed and let me know as soon as possible if there are any AmerenUE witnesses who may not have to attend the hearing. As I understand what Judge Roberts said, after we advise him of the identity of such witnesses, he will have to confer with the Commission before formally releasing them from having to appear. If we can agree to release some of these witnesses, we may not need the full three days which are scheduled.

Finally, once we resolve the issue of your clients' responses to the data request, we can proceed with the depositions. Please provide dates when your witnesses are available the week of June 24.

Yours very truly,

HERZOG, CREBS & MCGHEE, LLP



Michael A. Vitale

MAV/mh

cc: Steve Dottheim (via mail)
John Coffman (via mail)