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November 17, 2000

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**FILED<sup>3</sup>**

NOV 17 2000

Missouri Public  
Service Commission

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

Re: Case No. EA-2000-308

Dear Judge Roberts:

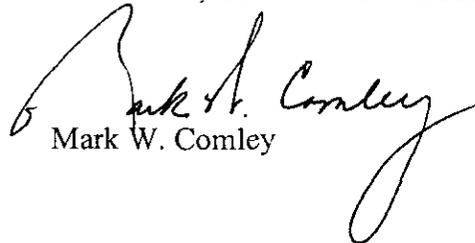
Enclosed for filing in the referenced matter please find the original and eight copies of Intercounty Electric Cooperative Association's Second Motion to Compel Responses to Data Requests.

Please contact me if you have any questions regarding this filing. Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:

  
Mark W. Comley

MWC:ab

Enclosure

cc: Office of Public Counsel  
Denny Frey  
Gary W. Duffy  
Michael R. Dunbar  
Vernon W. Strickland

FILED<sup>3</sup>

NOV 17 2000

Missouri Public Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

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

**INTERCOUNTY ELECTRIC COOPERATIVE ASSOCIATION'S SECOND MOTION TO COMPEL RESPONSES TO DATA REQUESTS**

COMES NOW Intercounty Electric Cooperative Association ("Intercounty"), by and through its attorneys, and moves the Commission, pursuant to 4 CSR 240-2.090(1) and Rules 57.01(a) and 61.01(b) of the Missouri Rules of Civil Procedure, to enter an order compelling the City of Rolla (Rolla) to fully answer and respond to certain data requests propounded by Intercounty. Intercounty further submits the following to the Commission:

1. On November 3, 2000, Intercounty served on Rolla its sixth set of data requests which were numbered 167-217. Rolla has asserted objections to data request numbers 181, 183 and 184. The text of the data requests are set out below:

- 181. Have you entered into any wheeling agreement or arrangement with any electric supplier, or authorized broker or agent of an electric supplier? If so, state the terms of the arrangement or attach a copy of the written wheeling agreement(s).
- 183. Identify each wholesale and alternative energy supplier with whom you have entered an agreement or other arrangement for purposes of acquiring baseload energy/power, back up power or an alternate energy supply. For each supplier identified, attach a copy of your agreement with the supplier or any document which sets out the terms of the arrangement or agreement. If no such document exists, describe the terms of such agreements or arrangements in your response to this data request.
- 184. Provide copies of any contracts or agreements between the City of Rolla, or RMU, and the Grand River Dam Authority (GRDA), all correspondence between you and GRDA regarding the contracts and agreements, and all your internal correspondence and memoranda concerning the contracts and agreements.

2. Rolla's objection to each data request is the same. Rolla claims that the information

is not relevant, and is not otherwise discoverable in that the information is a "closed record" under the provisions of §610.021(18) RSMo. Cum. Supp. 1999. The Commission should overrule the Rolla's objections to these data requests for the following reasons:

- A. The Commission is not classified as the "public" and, in pursuit of its authority and duties, can direct disclosure of information labeled "closed" under the statute. *State ex rel. Jackson County Grand Jury v. Shinn*, 835 S.W.2d 347 (Mo. App. W.D. 1992).
- B. In this matter, the Commission is authorized to consider any information that will bear on future service, rates, and costs as part of its public interest analysis. § 386.800(7) and (8), RSMo. RMU's wheeling arrangements and existing wholesale power contracts are directly involved in its cost of service and hence its rates. Depending upon the terms of the agreements and arrangements, Rolla's rates for service could increase. Rates for service are matters of public interest, and are therefore relevant to this case.
- C. By issuing a protective order in this case on February 24, 2000, the Commission has taken the steps necessary to protect the City of Rolla from public disclosure of its confidential or sensitive information and records so that the need to keep these records closed does not exist.

3. On November 14, 2000, Intercounty filed a motion to compel with supporting suggestions, the subject matter of which predominantly concerned the same objection which Rolla has asserted to the Intercounty data requests identified in the foregoing. Intercounty will not file a separate set of supporting suggestions for this motion, since much of what would be written in those suggestions would be a duplicate of material already before the Commission. Instead, Intercounty invites the Commission to review its earlier filed suggestions in support of its previous motion to compel, and incorporates those suggestions herein to the extent they are apposite.

4. Counsel certifies compliance with 4 CSR 240-2.090 (8)(A) and (B).

WHEREFORE, Intercounty moves the Commission to enter its order directing the City of Rolla to answer Intercounty's data request numbers 181, 183 and 184; and for such additional relief the Commission deems just under the circumstances.

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Association

Certificate of Service

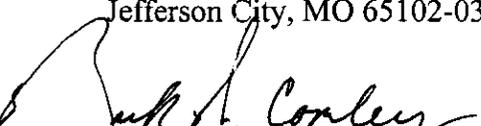
I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand delivered, on this 17<sup>th</sup> day of November, 2000, to:

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