

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

Eddie Shepherd,)	
)	
Complainant,)	
)	
v.)	File No. EC-2011-0373
)	
KCP&L Greater Missouri Operations Company,)	
)	
Respondent.)	

**KCP&L GREATER MISSOURI OPERATIONS COMPANY'S
MOTION TO QUASH SUBPOENA**

KCP&L Greater Missouri Operations Company (“Company” or “GMO”) pursuant to Missouri Rules of Civil Procedure 56.01(c) as well as 4 CSR 240-2.100 moves for a protective order to quash the subpoena served by Eddie Shepherd upon the Company on August 9, 2011 or to otherwise limit the subpoena’s terms and conditions.

In support, GMO states as follows:

1. On August 9, 2011¹ Mr. Shepherd purported to serve on GMO a document styled “Subpoena for Witness” with the handwritten legend “(Duces Tecum)” underneath. A copy of this document is attached as Exhibit A.

2. Exhibit A suffers from many defects. First, Mr. Shepherd indicates on Exhibit A that he personally served the subpoena. This service is in violation of Rule 54.13(a) of the Missouri Rules of Civil Procedure in that he is a party to the action. The Commission’s July 15 Order indicated that Mr. Shepherd was to fill out and serve the subpoena subject to Section 386.440 and 536.077 RSMO which do not allow for service by a party. Next, contrary to 4 CSR 240-2.100(1), Exhibit A does not state the reasons why the production is believed to be material

¹ On August 16, 2011, Mr. Shepherd purportedly served another document styled “Subpoena Duces Tecum” on the Company. While many of the requests are the same, the Company will make a separate filing to address the August 16 document.

and relevant. Moreover, in many instances the Company is unsure of what Mr. Shepherd is requesting because the subpoena is overly broad and vague.

3. GMO's specific objections to the requests are as follows:

- Request #1 states "work order on Replacing tranformer hit by lighting." [sic] GMO understands that Mr. Shepherd's complaint concerns an alleged faulty meter. The Commission has determined that Mr. Shepherd's complaint is based on "violations related to meter accuracy and overbilling."² Therefore, GMO does not believe any work order regarding the replacement of a transformer due to a lightning strike has any relevance to Mr. Shepherd's complaint. GMO requests that it not be required to respond to this request.
- Request #2 states "light meter hit by lighting. Light meter # SA 40172754." [sic] In paragraph three of its Answer, the Company admitted that this meter showed signs of a lightning strike and was replaced. The meter was tested and found to be 99.87% accurate. Thus, there is no need to produce the actual meter. The uncontroverted testing results show that the meter recorded accurately within the limits required by GMO's tariffs. GMO requests that it not be required to respond to this request.
- Request #3 states "light bills with your daily usage was kwh 6/1/1991-6/1/2011." [sic] This request for ten years worth of daily usage is unduly burdensome in that the Complaint is only seeking relief due to alleged meter inaccuracy since July 2010. In addition, meters are read on a cycle basis typically covering a 30 day period. Mr. Shepherd is apparently requesting daily usage for ten years. The Company does not have daily usage for Mr. Shepherd's account and is therefore

² See July 13, 2011 "Order Granting Dismissal In Part for Failure to State a Claim", at p. 1.

unable to provide this information. Moreover, the Commission has indicated that the only relevant months for such a claim are after March 10, 2011.³ GMO requests that it only be required to produce monthly bills since March 2011.

- Request #4 states “list of names of all meter readers and the lady that look at meter told her boss u can not see the meter form the road.” [sic] GMO can produce a list of recent meter readers for Mr. Shepherd’s account but does not know what Mr. Shepherd is requesting in the remainder of the request. Because of this uncertainty and lack of relevance, GMO requests that it only be required to produce the names of the meter readers for Mr. Shepherd’s account since July 2010.
- Request #5 states “Carroll Steeby strasser and the two men came out that night at 8:30 pm-9:30 pm to cut the tree off power line.” [sic] GMO is aware of the two employees (Steeby and Strasser) mentioned in the first part of the request. However, the second part of the request is unduly vague. Moreover, since the complaint concerns an alleged faulty meter, the Company does not understand the relevancy of the second part of this request. As to Mr. Steeby and Mr. Strasser, the Company has already submitted an affidavit regarding the accuracy of the meter tests in question. GMO requests that it not be required to respond to this request.
- Request # 6 states “Missouri Public Service Comm. Inveslgtors mary and the technical man talk to on 4/15/2011 and gay fred.” [sic] GMO has no control over these individuals as they are not in the Company’s employ. GMO cannot respond to this request and asks that it not be required to respond to this request.
- Request #7 states “light bill with 17.000 kwh Over billed.” [sic] GMO does not understand what Mr. Shepherd is asking for in this request and asks that it not be

³ *Id* at p. 5.

required to respond to this request. GMO is already producing the monthly bills relevant to the complaint.

- The first page of Exhibit A indicates that the Company is to bring items 1-9 to the hearing. However, there are only seven “items” listed on p. 2 of Exhibit A instead of nine. GMO requests that it not be required to produce information related to items eight and nine as they are not identified.

WHEREFORE, Respondent GMO respectfully requests that a protective order be issued that:

- (1) Quashes the subpoena purportedly served by Mr. Shepherd as it does not comply with the Commission’s rules or Missouri law, or
- (2) Quashes specific portions of the subpoena as outlined in paragraph 3 above.

Respectfully submitted,

/s/ Roger W. Steiner

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Attorney for KCP&L Greater Missouri Operations Company

Dated: August 19, 2011

Certificate of Service

I hereby certify that a true and correct copy of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all parties of record on this 19th day of August, 2011.

/s/ Roger W. Steiner

Attorney for KCP&L Greater Missouri Operations Company