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

FILED³
NOV 14 2000
Missouri Public
Service Commission

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 Motion to Compel Responses to Data Requests, along with Suggestions in Support.

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

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

NOV 14 2000

Missouri Public
Service Commission

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
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 or about May 9, 2000, Intercounty served on Rolla its third set of data requests which were numbered 68-117. Of those data requests, numbers 77-117 concerned Rolla's possible acquisition of trailer mounted generation equipment. Rolla supplemented its answers to data request numbers 77-117 on October 11, 2000 and asserted objections to data requests numbers 82, 84 and 115. On June 19, 2000, Intercounty served its fifth set of data requests numbered 158-166 on Rolla. Rolla asserted an objection to data request number 160 which was identical to the objections posed to data requests 82, 84 and 115. Data requests 82, 84, 115 and 160, and Rolla's answers and objections thereto are reprinted below for easy reference:

82. Attach to your answers to these data requests a copy of any lease, or contract to purchase the generation equipment.

Answer: Attached is a copy of the lease as presented to the City Council on April 23, 2000. We object to producing the final document as it is a closed record under subsection 18 of section 610.021 RSMo.

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84. Is the acquisition of the trailer mounted generators part of RMU's long range plan to address future energy demand? If so, attach a copy of the plan to your responses and state when the long range plan was developed and by whom.

Answer: Yes. We object to producing the plan as it is a closed record under subsection 18 of section 610.021 RSMo.

115. Will the trailer mounted units be used to generate revenue for RMU? If so:
- a. How will the units be contracted?
 - b. Who will do the contracting?
 - c. Will any revenue received be used to lower or offset costs to the customers of RMU?
 - d. What other potential benefits will the customers of RMU realize if the units are placed in service?

Answer: Yes, We object to parts a, b, c, d, and e on the basis that it calls for information from RMU's business plan which is a closed record.

160. Provide a copy of the business plan referred to in Mr. Watkins' written testimony on page 19, line 7 and any work papers used in its formulation to date.

Answer: See objection filed.¹

2. The Commission should overrule the Rolla's objections to these data requests, because, as set out more fully in the suggestions in support of this motion which are incorporated herein by reference:

- A. The Public Service 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).

¹The text of the objection was set forth in a letter dated June 29, 2000 from counsel for the City of Rolla in which Section 610.021 (18), RSMo. Cum Supp. 1999 was asserted as the basis of the objection.

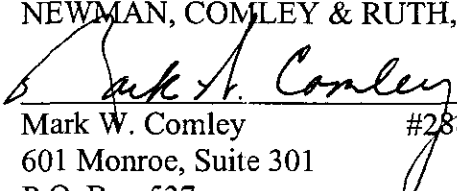
- B. The Public Service Commission is authorized to consider any information that will bear on future service, rates, and costs as part of its public interest analysis. § 386.800(7) and (8), RSMo. Because the information requested would affect the public interest as defined by the statute, it is relevant and the Commission has the power to order disclosure.
- C. By issuing a protective order in this case on February 24, 2000, the Public Service 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. Prior to filing this motion, counsel for Rolla and Intercounty have discussed the objections to each of the above data requests, and have taken up the objections to data request numbers 82, 84 and 115 with the regulatory law judge. Counsel certifies compliance with 4 CSR 240-2.090 (8)(A) and (B) with respect to those data requests.

4. Regarding data request 160, this data request, and Rolla's objection, were not specifically addressed during the attorneys' conference with the regulatory law judge, but because Rolla's objection is the same, Intercounty requests that the Commission nonetheless consider the objection to data request 160 without the necessity of first contacting the regulatory law judge for conference.

WHEREFORE, Intercounty moves the Commission to enter its order directing the City of Rolla to answer Intercounty's data request numbers 82, 84, 115 and 160; and for such additional relief the Commission deems just under the circumstances.

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Certificate of Service

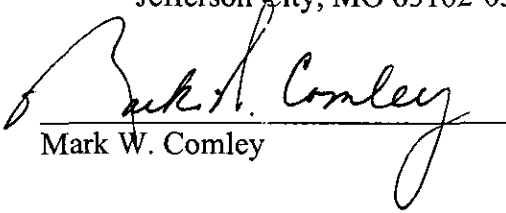
I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand delivered, on this 13th day of November, 2000, to:

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