

Jimmie E. Small,  
Complainant,  
v.  
Ameren Missouri, et. al.,  
Respondents.

**File No. EC-2012-0050**

Issue Date: February 8, 2012

Effective Date: February 8, 2012

Commission Rule 4 CSR 240-2.090(1) allows litigants before the Commission to conduct discovery under the same means and conditions as allowed before the circuit court. Mr. Small has sent Requests for Production of Documents, Requests for Admissions, and Interrogatories to Ameren. As these methods of discovery are allowed in circuit court, so also are they allowed before the Commission. Ameren has answered some discovery, although not all to Mr. Small's satisfaction. Further, Ameren has objected to some of Mr. Small's discovery. Thus, Mr. Small has filed the pending Motion to Compel and Order for Default.

<sup>1</sup> Calendar references are to 2012 unless otherwise noted.

Mr. Small relies upon a prehearing conference in a dismissed case for his motion. That case, EC-2011-0247, was dismissed for Mr. Small's failure to comply with Commission orders. Further, despite Mr. Small's repeated assertions, the transcript reveals no oath was administered at the prehearing conference. Moreover, even if there were, Commission regulations generally prohibit use of facts disclosed in a prehearing conference.<sup>2</sup>

Much of the rest of Mr. Small's motion repeats substantive arguments of federal law that he has made several times. It does not state with particularity which discovery objections he would like overruled and why. Further, because the Commission has already ruled that it has no authority to grant Mr. Small legal or equitable relief<sup>3</sup>, Mr. Small's discovery requests to which Ameren objects do not appear to be reasonably calculated to lead to admissible evidence, which is the standard for when information is discoverable.

Mr. Small also claims Ameren has violated Missouri Rule of Civil Procedure 43.01. Apparently, Mr. Small would like a default order because he has received answers or objections to discovery that do not include a certificate of service. Rule 43.01, and Rules 57-59, however, requires service of the discovery response upon the party, and the certificate to be filed with the court (or, in this case, the Commission). Ameren has done so.

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<sup>2</sup> Commission Rule 4 CSR 240-2.090(7).

<sup>3</sup> Commission Case No. EC-2012-0050, Order Dismissing Claims and Parties, p. 1 (issued October 5, 2011).

**THE COMMISSION ORDERS THAT:**

1. The Motion to Compel and Order for Default are denied.
2. This order is effective immediately upon issuance.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

( S E A L )

Ronald D. Pridgin, Senior Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 8<sup>th</sup> day of February, 2012.