

On March 8, 2012, Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”) served Jimmie Small with a request for the production of documents under Missouri Rule of Civil Procedure 58.01. The request asked Mr. Small to produce any documents he had obtained from an Ameren Missouri representative at its office in Kirksville, Missouri. On May 30, 2012, Ameren Missouri filed a *Motion to Waive Discovery Rules and to Compel Complainant’s Response to Ameren Missouri’s Request for Production*. The motion alleges that Mr. Small has failed to produce the requested documents or make an objection to the request. In addition, Ameren Missouri states that Mr. Small has refused to respond to Ameren Missouri’s repeated attempts to resolve the matter by letter and telephone calls. The motion asks the Commission to require Mr. Small to comply with the request for production of documents and waive Commission procedural rules requiring a telephone conference to resolve discovery disputes, because the evidentiary hearing in this case is scheduled for June 13, 2012.

Commission Rule 4 CSR 240-2.090(1) allows discovery under the same conditions as in civil actions, as well as allowing the Commission to impose sanctions for failing to produce discovery. Possible sanctions under Missouri Rule of Civil Procedure 61.01(d) for failure to produce documents include prohibiting introduction of such documents into evidence, striking pleadings, or dismissing the proceeding. Missouri Rule of Civil Procedure 58.01 requires a party objecting to a request for production of documents to do so within 30 days of service.

Ameren Missouri's request for the production of documents is relevant to one of the issues in this case and, therefore, is a proper matter for discovery under Missouri Rule of Civil Procedure 56.01(b). The Commission will grant Ameren Missouri's motion to compel production and require Mr. Small to produce the requested documents. Since the hearing date is less than two weeks from the date of this order, the Commission will also grant Ameren Missouri's motion for waiver of the discovery rule requiring a telephone conference prior to submitting written discovery motions.

THE COMMISSION ORDERS THAT:

1. Ameren Missouri's *Motion to Waive Discovery Rules and to Compel Complainant's Response to Ameren Missouri's Request for Production* is granted. Mr. Small shall comply with Ameren Missouri's first request for production of documents no later than June 7, 2012.

2. The Commission's Data Center shall send a copy of this order to Mr. Small by U.S. Mail and by overnight delivery and shall file the delivery confirmation receipt in the case.

3. This order shall become effective immediately upon issuance.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Michael Bushmann, Regulatory Law Judge
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 31st day of May, 2012.