

**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.)	

**ORDER GRANTING IN PART AND DENYING IN PART
ENFORCEMENT OF DISCOVERY, AND DENYING SANCTION**

Issue Date: October 17, 2011

Effective Date: October 17, 2011

The Commission is denying the motion of Eddie Shepherd for enforcement of discovery and a favorable decision as a sanction ("motion"). Mr. Shepherd filed the motion on September 29, 2011. KCP&L Greater Missouri Operations Company (GMO) filed a response on October 11, 2011. In the motion, Mr. Shepherd seeks enforcement of discovery or, in the alternative, for a favorable decision as a sanction.

1. Enforcement

In support of the motion, Mr. Shepherd alleges that GMO failed to produce certain documents and information:

On request for discovery, I have not received all information.

* * *

7. This is information I request [but] did not receive from [GMO].

GMO responds as follows.

a.

GMO states that it has already produced every item in its possession resembling the following item.

6. I need month light bill of (17,000 kwh) I paid off.

Therefore, the Commission will deny the motion as to that item.

b.

GMO has promised compliance as to the following items.

1. I need the work order on replacing transformer.

Mr. Shepherd has alleged more than one lightning strike and GMO states that it will produce its only document resembling that description.

3. I need the name of the supervis[or] of meter readers.

GMO states that it will produce that information, so the Commission will grant the motion as to those items and set a date for such compliance.

c.

GMO states that it does not possess the following items.

4. I need the work order to cut tree off power line from 8:30-9:30 p.m.

5. I need the names of the two men came out to cut tree power line that night from 8:30-9:30 p.m.

GMO states that it does not have those items because GMO did not cut the tree off the power line. The Commission cannot require the production of items that party does not possess, so the Commission will deny the motion as to those items.

d.

GMO states that the following item is beyond the scope of discovery as limited in the Commission's order dated September 2, 2011.

2. I need the rest of light bill [from] 6/1/91.

The Commission limited discovery to November 2004 at the earliest, so the Commission will deny the motion as to that order.

2. Sanction

Mr. Shepherd's alternative remedy is:

8. Plaintiff[f] wins by default.

The rules of discovery allow a sanction by striking the pleadings of, and entering a decision against, a non-complying party.¹ But GMO has yet to comply with two items at most, which does not support that sanction. Therefore, the Commission will deny the motion as to a decision by sanction.

THE COMMISSION ORDERS THAT:

1. As to items # 1 and item # 3, as described in the body of this order, the motion is granted and GMO shall deliver its responses to Eddie Shepherd no later than October 24, 2011.

2. The rest of the motion filed on September 29, 2011, is denied.

¹ Lindsey v. Lindsey, 336 S.W. 3d 487 (Mo. App., E.D. 2011).

3. This order is effective immediately upon issuance.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'S. Reed', is positioned above the printed name of the Secretary.

Steven C. Reed
Secretary

(S E A L)

Daniel Jordan, Senior Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 17th day of October, 2011.