

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

Effective Date: May 21, 2012

Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”) filed a motion on May 17, 2012, asking the Commission to quash a subpoena duces tecum served by Jimmie E. Small on Ameren Missouri. The subpoena demanded that an Ameren Missouri representative produce to Mr. Small any documents and evidence related to Mr. Small’s prior request for admission concerning alleged violations of Commission Rule 4 CSR 240-18.010. Ameren Missouri objects to the subpoena on the grounds that it requests information that is irrelevant to the remaining issues in this case.

In its order issued on March 2, 2012, the Commission specifically denied Mr. Small's claims for relief relating to alleged violations of 4 CSR 240-18.010 and stated that the Commission would not permit evidence or argument at the hearing relating to any claims or theories of recovery other than the following issues: (1) Did Ameren Missouri act in accordance with applicable Missouri statutes, rules and tariffs during 2006-2008 when it

disconnected electric service at Mr. Small's property in Kirksville, Missouri; and (2) Did Ameren Missouri falsify documentation of Mr. Small's electric service account records?

Mr. Small's request for admission and subsequent subpoena duces tecum requests evidence relating to a claim that has already been dismissed, so the information requested by Mr. Small is not relevant to the remaining two issues.

The Commission notes that the procedural schedule included in the March 2, 2012 order also required that prior to the issuance of a subpoena, parties must demonstrate to the Regulatory Law Judge that the witness or document requested is relevant to the remaining issues and request the subpoena directly from the Judge currently assigned to the case. Mr. Small did not contact the assigned Judge to request his subpoena and did not demonstrate the relevance of the requested information prior to issuance of the subpoena.

Commission Rule 4 CSR 240-2.090 provides that the Missouri Rules of Civil Procedure will apply to discovery before the Commission. Missouri Rule of Civil Procedure 57.09(b)(1) provides that the court may quash a subpoena for the production of documents if it is unreasonable or oppressive. Commission Rule 4 CSR 240-2.070(7) also provides that the Commission may dismiss or strike claims or allegations that are irrelevant or violate an order of the Commission.

Ameren Missouri's objections to Mr. Small's subpoena duces tecum are well-founded. The subpoena attempts to obtain information relating to a claim for relief that has already been dismissed by the Commission and is, therefore, irrelevant to the remaining two issues in the case. In addition, the subpoena was issued in violation of the procedural

schedule ordered by the Commission. Ameren Missouri's motion will be granted and the subpoena duces tecum served by Mr. Small on Ameren Missouri will be quashed.

**THE COMMISSION ORDERS THAT:**

1. The subpoena duces tecum served by Jimmie E. Small on Ameren Missouri on May 9, 2012, is quashed.
2. This order shall become effective on 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 21st day of May, 2012.