

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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Missouri Public
Service Commission

Zoltek Corporation,)
)
Complainant,)
)
vs.) Case No. EC-2001-345
)
Union Electric Company,)
d/b/a Ameren UE,)
)
Respondent.)

**COMPLAINANT'S OBJECTIONS TO RESPONDENT'S MOTION
TO (i) REOPEN THE EVIDENTIARY HEARING, (ii) REOPEN THE
BRIEFING PERIOD AND/OR (iii) REQUIRE STAFF TO ADVISE
THE COMMISSION OF ITS POSITION WITH RESPECT TO
THE QUALITY OF SERVICE PROVIDED TO COMPLAINANT**

COMES NOW Complainant, Zoltek Corporation, by and through its attorneys, and for its Objections to Respondent's Motion to (i) Reopen the Evidentiary Hearing, (ii) Reopen the Briefing Period and/or (iii) Require Staff to Advise the Commission of its Position with Respect to the Quality of Service Provided to Complainant, states as follows:

1. The evidentiary hearing of this matter took place on January 22, 23 and 24, 2002, and March 5, 2002, at which time the record was closed.
2. At no time during the evidentiary hearing did Respondent request that the Commission direct the Staff to present testimony.
3. At the conclusion of the hearing, the parties agreed upon a briefing schedule. Respondent did not request that the Staff be required to file a Brief.
4. Consistent with the parties' agreement, on April 6, 2002, the Commission issued its Order Directing Filing, in which the Commission required Complainant and

Respondent, but not the Staff, to file Briefs and Proposed Findings of Fact and Conclusions of Law and stated a specific filing schedule.

5. The Commission's April 6, 2002, Order specifically provided that the Commission's Staff *may* file a Brief, "but need not do so . . ." The Order precluded the Staff from filing Proposed Findings of Fact and Conclusions of Law.
6. Respondent did not object to that portion of the Commission's April 6, 2002, Order regarding the Staff's participation in the Briefing process nor did it request at or near that time that the Staff be required to file a Brief.
7. Complainant and Respondent each requested and received an extension of time within which to file with the Commission these documents.
8. The Commission's April 26, 2002, Order granting Complainant additional time within which to file its Initial Brief and Proposed Findings of Fact and Conclusions of Law again left the Staff with the option of filing a Brief and specifically prohibited it from filing Proposed Findings of Fact and Conclusions of Law.
9. Respondent did not object to that portion of the Commission's April 26, 2002, Order allowing the Staff the option of filing a Brief nor did it request at or near that time that the Staff be required to file a Brief.
10. Complainant filed its Initial Brief and Proposed Findings of Fact and Conclusions of Law on or about May 28, 2002.
11. Respondent filed its Brief and Proposed Findings of Fact and Conclusions of Law on or about August 5, 2002.

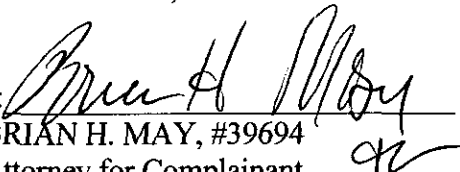
12. Complainant filed its Reply Brief on or about August 19, 2002.
13. The issue of whether Respondent failed to provide to Complainant safe, adequate and reliable service has been before the Commission since November 16, 2001.
(See Joint List of Issues)
14. Despite being aware since November, 2001, that the safety, adequacy and reliability of the service was at issue, Respondent never moved at any time before, during or at the conclusion of the hearing of this matter to compel the Staff to provide its position by testimony or to require it to file a Brief.
15. The issues set forth in Respondent's Motion are not the same as those in Respondent's Brief (See Respondent's Brief, pp. 24-25).
16. Respondent is now attempting, eight (8) months after the closing of the record, seven (7) months after the Order regarding the Briefing schedule was first issued, and nearly three (3) months after the filing of all the Briefs to raise and discuss new issues for the Commission's consideration.
17. This attempt to raise new issues is clearly outside of the time set by the Commission for the filing of Briefs and inconsistent with the parties' agreement.
18. Respondent has failed to state an explanation for this lengthy delay.
19. Respondent has failed to state a compelling reason for the Commission to reopen this matter at this late date.
20. Complainant demonstrated with competent and substantial evidence that Respondent's service was unsafe, inadequate and unreliable during the time period under consideration.

21. Respondent fails to state with specificity the manner in which the Staff is “peculiarly qualified” to address the issue of the safety, adequacy and reliability of the service provided to Complainant by Respondent.
22. Respondent fails to state with specificity the manner in which the application of the Staff’s expertise would be “advantageous.”
23. Respondent fails to state whether the Staff acquired this “peculiar qualification” and expertise subsequent to the hearing and the Briefing period.
24. Complainant requests that the Commission set Respondent’s Motion for oral argument.

WHEREFORE, Complainant respectfully requests that the Commission deny Respondent’s Motion to (i) Reopen the Evidentiary Hearing, (ii) Reopen the Briefing Period and/or (iii) Require Staff to Advise the Commission of its Position with Respect to the Quality of Service Provided to Complainant; set this Motion for oral argument; and for such other and further relief as the Commission deems appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Signature above is also certification that a true and correct copy of the above and foregoing document has been mailed, postage prepaid, this 12th day of November, 2002, to:

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