

1 STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
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TRANSCRIPT OF PROCEEDINGS
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5 Discovery Conference
6
7 February 19, 2014
Jefferson City, Missouri
8 Volume 5
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10 Craig Mershon,)
)
11 Petitioner,)
)
12 vs.) Case No. EC-2013-0521
)
13 Union Electric Company d/b/a Ameren)
Missouri)
14)
Respondent.)
15
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17 JUDGE DANIEL R.E. JORDAN, Presiding
REGULATOR LAW JUDGE
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1 A P P E A R A N C E S

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For Mr. Craig Mershon:

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1 P R O C E E D I N G S

2 JUDGE JORDAN: We will go on the record.

3 The Commission is calling the case in File No.

4 EC-2-13-0521. This is the complaint of Craig

5 Mershon versus Union Electric Company doing

6 business as Ameren Missouri.

7 We are here for a discovery conference.

8 And the Commission has put this conference together

9 knowing that a written motion presents something of

10 a barrier for Mr. Mershon, and we wish to

11 accommodate him, and, also, to resolve these issues

12 given that the evidentiary hearing in this action

13 is but eight days away.

14 So with that, what we're going to talk

15 about today are the objections to discovery that

16 have been filed so far. I will probably make my

17 ruling on the record and issue a written order

18 later. So let's begin with entries of appearance.

19 Mr. Mershon, will you state your name and

20 spell it for the reporter, please?

21 MR. MERSHON: Craig Mershon, C-r-a-i-g

22 M-e-r-s-h-o-n.

23 JUDGE JORDAN: Reporter, did you get that?

24 THE COURT REPORTER: Yes.

25 JUDGE JORDAN: Very good. Thank you. And

1 for Union Electric doing business as Ameren
2 Missouri?

3 MS. GIBONEY: Sarah Giboney of Smith
4 Lewis, LLP, 111 South Ninth Street, Suite 200,
5 Columbia, Missouri, 65201. And Giboney is
6 G-i-b-o-n-e-y.

7 JUDGE JORDAN: Thank you. And for Staff?

8 MR. KEEVIL: Appearing on behalf of the
9 Staff of the Public Service Commission, Jeff
10 Keevil. My address is Post Office Box 360,
11 Jefferson City, Missouri, 65102.

12 And also with me in the hearing room today
13 are Gay Fred and Justin Edwards of the PSC Staff,
14 Consumer -- Customer Service Department.

15 JUDGE JORDAN: Thank you, Counselor.
16 Here's how I'd like to proceed on this. I note
17 that in the objections that I have from both Ameren
18 and Staff, there is a mention of service having
19 been late and beyond the deadline, service of
20 discovery having been late and served beyond the
21 deadline established by the Commission order.

22 That date was February 7th, 2014. Since
23 that is common to both responses, I'd like to --
24 like the -- the parties to speak to that first.
25 And I'll start with Ameren.

1 MS. GIBONEY: Well, Judge, we're just
2 making a general objection. This is the latest in
3 an order that set a time to serve discovery, and we
4 didn't receive it until six days after that date.

5 And we didn't receive it until one day
6 before our own objections to that discovery were
7 due. That doesn't seem fair, and it doesn't allow
8 us time to really comb through the discovery.
9 So --

10 JUDGE JORDAN: Okay. So you're telling me
11 that you received this discovery on the 13th of
12 February; is that correct?

13 MS. GIBONEY: Yes, Judge. We were not
14 served with that discovery by Mr. Mershon. We only
15 received it through the filing in EFIS.

16 JUDGE JORDAN: Okay. And, Staff, do you
17 have something to tell me about when you were
18 served with?

19 MR. KEEVIL: Yeah. Judge, that's what I
20 was going to say. First of all, we never -- so
21 far, we still have yet to be served with the
22 discovery in this matter.

23 We did receive it through EFIS as
24 Ms. Giboney said. As far as I'm aware, it was
25 never served on Counsel or parties by Mr. Mershon.

1 We just got it when it hit EFIS on the 13th.

2 As Ms. Giboney mentioned, that was well
3 beyond the -- the date that was set for the service
4 of -- or the deadline for service of discovery,
5 which you mentioned in your order of scheduling
6 this conference and which you also correctly, I
7 might add, point out that that date was originally
8 suggested by Mr. Mershon himself as the deadline
9 for serving discovery.

10 One thing I might also remind you and the
11 parties is this is the -- I think the third
12 schedule we've had in this matter. And so far,
13 Mr. Mershon has seemed unable to meet any of those
14 schedules, and this last one, like you said, being
15 the date for discovery being proposed by him, and
16 yet he was unable to meet that discovery.

17 And I would like to agree with what
18 Ms. Giboney said about the fairness aspect here of
19 it. If -- if the -- Ameren and Staff had to
20 respond in one day, basically, due to the timing of
21 Mr. Mershon's discovery -- late discovery request,
22 and it doesn't seem quite fair to me.

23 And let me say, all of that is with the
24 caveat that Mr. Mershon's discovery request wasn't
25 even directed to the Staff of the Commission, which

1 is not clear from the pleading that he filed in
2 EFIS. It -- the pleading that he filed is actually
3 directed to the Commission itself rather than to
4 the Staff. But I'm assuming for purposes of this
5 discovery conference today that it was -- should
6 have been directed to Staff rather than to the
7 Commission.

8 JUDGE JORDAN: Thank you, Counselor.
9 Mr. Mershon, what do you have to say about the
10 timely service of your discovery?

11 MR. MERSHON: First of all, I told you at
12 the very beginning it would take me time to get
13 pleadings together, and you even mentioned it as
14 you opened this conference.

15 I did send them. You yourself told me to
16 send it -- any pleading to the Missouri Public
17 Service Commission Data Center, and everything
18 since that time has been sent to them.

19 As far as a conference, I will not be
20 around in a conference itself until the time that
21 discovery is completed. And in a normal case, no
22 court date or anything is set until such time that
23 the discovery is complete. And I sent the
24 information to the data center as you had
25 instructed me to do.

1 So -- and as far as the date, I also told
2 you I had to send my stuff to a typist and have her
3 send it back to me. And I sent it directly to the
4 Data Center as I was instructed to do.

5 Now, what I'm doing now is I'm doing an
6 objection to whatever they said, and that will also
7 have to go to my typist once I finish it, and then
8 I will have it sent to you.

9 Now, if Ms. Giboney or Mr. Keevil will
10 want me to send them separate ones, I'll have to
11 have their address. Of course, I have Ms.
12 Giboney's address, but I don't have Mr. Keevil's
13 address at all.

14 And I'm seeing it's being sent to 200
15 Madison Street. I don't know the room number or
16 any of that stuff. So it would be impossible to
17 send it to him. But everything will go to the Data
18 Center. But I will send it to him. If he sends me
19 his address and phone number and a room number he's
20 in, I will see that he gets it. It's the same with
21 Ms. Giboney.

22 MS. GIBONEY: But, Mr. Mershon, you did
23 say you have my address, correct?

24 MR. MERSHON: I do have your address.

25 MS. GIBONEY: Okay. Mr. Mershon --

1 MR. KEEVIL: He has my address, too,
2 Judge. It's in the pleadings that we filed at
3 certain times, so he's got the address.

4 JUDGE JORDAN: Okay. Mr. Mershon, the
5 parties have stated that they didn't have -- okay.
6 You are telling me that that -- Reporter, sorry
7 about that.

8 February 13th of 2014 when you entered
9 your discovery into EFIS, that was the first time
10 that the parties would have knowledge of it. Was
11 there any mailing or -- or was there any service of
12 that before?

13 MR. MERSHON: No. I mailed it and -- I
14 mailed it to them. And in your pleading, you
15 indicated that the renewal of the effect was
16 included. I don't know that until after I mailed
17 it.

18 JUDGE JORDAN: Yeah. That's why I
19 mentioned that.

20 MS. GIBONEY: Judge?

21 JUDGE JORDAN: Yes.

22 MS. GIBONEY: May I ask a question? This
23 is Sarah.

24 JUDGE JORDAN: Sure.

25 MS. GIBONEY: Mr. Mershon, are you telling

1 me you mailed your discovery to me? Is that what
2 I'm hearing you say?

3 MR. MERSHON: No. I mailed it to the Data
4 Center.

5 MS. GIBONEY: Okay. Thank you.

6 MR. MERSHON: Like the Judge asked me to.

7 JUDGE JORDAN: Right. So we -- I did
8 receive hard copy of that, and I received that on
9 Friday, the 14th, I believe. Either that or
10 Thursday, the 13th, not before. Okay. When did
11 you mail that document, Mr. Mershon?

12 MR. MERSHON: Oh, I'm not sure when I
13 mailed it.

14 JUDGE JORDAN: Okay.

15 MR. MERSHON: When I got it, I mailed it.
16 It was out the next day.

17 JUDGE JORDAN: Okay. I'd like to move on,
18 then, to the objections themselves to the
19 discovery, and I'm going to start with Ameren.

20 And the first thing I note about these
21 objections is that while they do raise objections,
22 I note that most of the discovery is -- is with a
23 response. And I count one, two, three, I think,
24 eight or nine to which there is not response out of
25 26 that are unresponded. The rest have a response,

1 though, just an objection is raised and reserved.

2 MS. GIBONEY: That's correct, Judge. Do
3 you still want to discuss the objections? The most
4 common objection is that most of these questions
5 are just completely irrelevant to any complaint
6 about a service or bill that Mr. Mershon himself
7 has received. And I'll just make that as a general
8 statement.

9 JUDGE JORDAN: Okay.

10 MS. GIBONEY: A number of these also
11 request for us to put together -- compile
12 information for Mr. Mershon, and that's not a
13 Request for Production of existing documents. He
14 can't voice that obligation on to us.

15 Another general objection is that a number
16 of these are requests for us to tell Mr. Mershon
17 what the law is, what regulations apply to
18 something. That is also not a correct or proper
19 Request for Production.

20 So having said that, I'm happy to go
21 through each one of these individually.

22 JUDGE JORDAN: Okay. Why don't you go
23 ahead and -- and -- I understand your general
24 objections. They apply to everything that's not
25 responded to here so far. And if you want to go

1 through the -- these -- these document production
2 requests and highlight the specifics of each, you
3 may do so now.

4 JUDGE JORDAN: Okay.

5 MS. GIBONEY: All right. Thank you,
6 Judge. First question, which is requesting all
7 tariffs regarding the operation of Ameren Missouri,
8 this seems completely overly broad.

9 For example, the company has tariffs that
10 relate to the -- you know, the service rate for
11 large primary providers or users of electricity.
12 It has tariffs that relate to street lighting or to
13 -- or to the, you know, measurement of electric
14 service.

15 And none of those could reasonably be said
16 to relate to Mr. Mershon's complaints about his
17 billing. And as a result, you know, asking for all
18 tariffs is -- is just overly broad.

19 JUDGE JORDAN: Now, that's one that you
20 responded to, though, by reference to an URL, it
21 looks like.

22 MS. GIBONEY: Correct. If Mr. Mershon
23 would like to look at the company's tariff, those
24 are available to him via the Internet.

25 JUDGE JORDAN: It looks to me like Nos. 1

1 through 8 are responded to.

2 MS. GIBONEY: Well, yes.

3 JUDGE JORDAN: Either by reference to an
4 URL or by saying that there is no such document.

5 So let's go to No. 9. Is there anything
6 more that you want to say about Document Production
7 Request No. 9?

8 MS. GIBONEY: Well, he's asked for a list
9 of all customer service representatives. He has
10 not made an allegation that a customer service
11 representative violated a statute, rule or a
12 tariff.

13 And a list of all customer service
14 representatives of this company, it appears as if
15 he's going to harass the people on that list. And
16 unless he could explain possibly in this
17 conversation why he needs that list, we can't
18 imagine why that's relevant to his complaints about
19 his billing.

20 JUDGE JORDAN: Okay. Anything on that,
21 Mr. Mershon?

22 MR. MERSHON: Sure. The whole case deals
23 with how I have been treated as a customer, not
24 necessarily by customer service and the threat.
25 And in my discussion, I mention all of this.

1 But, of course, I'm going to draft another
2 one, amend the Petition and make it quite clear.
3 As far as were the things that I request, they all
4 deal with me. I don't care about street lighting.
5 I don't care about all that other stuff unless it
6 affects me. I wanted information that directly
7 deals with me. I asked for all documents dealing
8 with me.

9 And if you had read my Petition, it would
10 have told you exactly what I'm fighting for. And,
11 apparently, you all don't read them, and, you know,
12 you're doing things just deliberately to keep me
13 from getting information and then trying to set
14 dates and after I told you that it's going to take
15 me time to get stuff to you.

16 MS. GIBONEY: Judge?

17 MR. MERSHON: But, of course, you all
18 don't really listen. You don't even care.

19 JUDGE JORDAN: Yes, Ms. Giboney.

20 MS. GIBONEY: Judge, the request says a
21 list of customer service representatives within
22 Ameren Missouri and their supervisors. It is not
23 even limited to a list of people who Mr. Mershon
24 may have had contact with.

25 Even if it was limited to that, he hasn't

1 established why he needs to know the names of every
2 person he's ever spoken with.

3 JUDGE JORDAN: Okay. Let's move on to No.
4 17, please. Is there anything that the company
5 wants to add as to that, to its --

6 MS. GIBONEY: Judge, this is one of those
7 requests where I would characterize it as one that
8 relates to the company's methods of doing business,
9 which are not matters that are the subject of a
10 particular tariff or regulation or statute.

11 And it's irrelevant to his complaint. And
12 it's also to the extent that it relates to
13 something that is not within the Commission's
14 jurisdiction, could not be something that could be
15 taken up in this complaint.

16 So, you know, asking why -- asking for a
17 list is not a Request for Production. Asking why
18 is not a Request for Production. And asking about
19 the company's processes and procedures to the
20 extent that they're not a tariff or regulated or
21 matters subject to statute makes this something
22 that's not within the Commission's jurisdiction.

23 JUDGE JORDAN: Mr. Mershon, anything on
24 No. 18?

25 MR. MERSHON: What is No. 18? I don't

1 have it in front of me.

2 MS. GIBONEY: I believe it's 17.

3 JUDGE JORDAN: 17. I'm sorry. A list of
4 the reasons why if there is an outage the company
5 is unsure if they can assist those with
6 disabilities to be restored immediately. Do they
7 affect that such document exists.

8 MR. MERSHON: Well, we must sign to show
9 that we have electrical equipment. And if you
10 can't promise us that you can protect us, why do
11 you suspend me?

12 Why did you send it out in the first place
13 to let us fill it out and us send it back to you?
14 That doesn't make too much sense to do that to
15 someone and then say, Oh, well, if you don't pay,
16 we'll disconnect you.

17 Well, regardless of whether or not we pay,
18 we're still at a disadvantage if you disconnect us
19 for non-payment, but, also, at a disadvantage if we
20 are disconnected because of whatever, you know, it
21 is, whatever stage that you have going on that
22 might result in disconnection.

23 So what I wanted to know, why would you
24 send those things to people and have them fill them
25 out if you can't keep your end of the bargain?

1 JUDGE JORDAN: Okay. Let's move on to
2 No. 18, please.

3 MS. GIBONEY: Well, first of all, Judge,
4 we object because it assumes that the company
5 administration is uninvolved or doesn't take any
6 action, as we stated in our written objection.

7 Again, it's asking for a list of reasons.
8 It's not asking for production of documents. And
9 it seeks information that's completely irrelevant
10 to the complaint.

11 JUDGE JORDAN: Okay. Mr. Mershon, No. 18
12 is the list of reasons why the administration is
13 not involved in the due process system and why they
14 will not take any action. Do you have anything in
15 response to what Ms. Giboney has just stated?

16 MR. MERSHON: Under Amendment 14 of the
17 U.S. Constitution, we're entitled to appropriate
18 due process. Staying within the customer service
19 realm is not proper due process.

20 People are supposed to know outside of
21 that if one disagrees with how things are going
22 within that realm, there is the due process system
23 that does say you have a right to have upper levels
24 to work with you in your due process if you're not
25 happy with the results within the customer service.

1 And no one is able -- able to get outside
2 of that realm. Even writing letters doesn't do any
3 good because they want to control it all. And
4 that's not -- that's very unfair. And that's why I
5 asked for -- and when I asked for a list, I want
6 you to produce a list of information that I'm
7 requesting. And, apparently, everyone there is
8 working together to keep me from getting what I
9 want.

10 JUDGE JORDAN: Okay. Let's move to
11 Nos. 21 through 26. These all request a list of
12 steps the company plans to take in various
13 directions.

14 The company has objected that this does
15 not seek the production of any document.
16 Ms. Giboney, do you have anything to add to that as
17 to 21 through 26?

18 MS. GIBONEY: No. Not beyond what's
19 stated in our written objections. But I can read
20 that to Mr. Mershon since he doesn't have it in
21 front of him.

22 JUDGE JORDAN: Why don't you do that?

23 MS. GIBONEY: We've objected to the
24 request for a list of steps that the company plans
25 to take in approving the Customer Service

1 Department, and we've objected on the grounds that
2 it implies that the company needs to improve its
3 customer service center and does not seek
4 production of any document or thing within the
5 company's possession, custody or control and
6 seeking information to the extent it may exist is
7 irrelevant and not reasonably calculated to the
8 lead to the discovery of admissible evidence.

9 JUDGE JORDAN: And I believe that
10 objection applies to each of Nos. 21 through 26 --

11 MS. GIBONEY: Yes, Judge.

12 JUDGE JORDAN: -- in the list of steps.

13 MS. GIBONEY: They're all there.

14 JUDGE JORDAN: Thank you. Mr. Mershon,
15 anything to say to that?

16 MR. MERSHON: Again, I also object to how
17 they're doing. I needed that information because
18 customer service, Ameren and the Missouri Public
19 Service Commission aren't very good.

20 And I needed to know those things so that
21 I can address them in the appropriate way. If I
22 don't have them in front of me, there's no way I
23 can object to them or address them.

24 So that's the reason I asked. And you're
25 saying that -- I am asking for information. It's a

1 document of information regarding those issues. So
2 that's very unfair.

3 But I want to also make it known that you
4 can object to it, but I'll ask again until I get
5 what I need because it's just not fair the way you
6 -- and I can see that Ameren and the Missouri
7 Public Service Commission isn't fair because
8 they're not giving information that I'm requesting
9 to prove my point.

10 What they're doing is doing exactly what
11 the customer service representatives do, not give
12 information, not assist or do. They're doing
13 exactly what I said that they're doing. But
14 they're hiding it and doing other things to keep me
15 from getting what I need.

16 JUDGE JORDAN: Okay. I'm going to move on
17 to the items directed at the Commission or Staff.
18 I'll begin by saying this. I think that in this --
19 in this context and given the motions that have
20 been filed, I am -- there are, as Counsel for Staff
21 suggested, a couple ways of -- of looking at this.

22 One is as discovery directed to Staff, and
23 the other is as a Sunshine Law request directed to
24 the Commission. I don't think it's the latter.

25 When we put it in the context of this

1 action and the filings that we've had so far, I
2 don't think this is intended as a Sunshine Request
3 for a couple reasons. No. 1, it would be very
4 expensive for Mr. Mershon. No. 2, it would take a
5 lot longer than the hearing schedule allows.

6 So I think a fair reading of it is that
7 this is intended as discovery directed to Staff.
8 Am I right about that, Mr. Mershon?

9 MR. MERSHON: I don't have it in front of
10 me, but --

11 JUDGE JORDAN: Well, I'm talking about the
12 things that you sent that you filed in EFIS, your
13 first set of documents or a Motion to Produce, you
14 intended that to be a document production request
15 directed to Staff; is that correct?

16 MR. MERSHON: If it says the Missouri
17 Public Service Commission, yes.

18 JUDGE JORDAN: Yes. That's what we're
19 talking about. Okay. So I do think that's
20 discovery, and I'm going to treat it that way. And
21 I will -- and Staff has made objections to that
22 discovery.

23 And I see that this -- and I have that
24 from Staff Counsel who is present today. I'll ask
25 Staff Counsel to go ahead and put on the record how

1 he transmitted these objections to Mr. Mershon and
2 to me. Will you give us a brief description of
3 that?

4 MR. KEEVIL: Yes, Judge. Due to the
5 procedural schedule which required objections by, I
6 think it was, last Friday.

7 JUDGE JORDAN: Yes.

8 MR. KEEVIL: Having received the discovery
9 Thursday, the day before the objections were due, I
10 wrote a letter as is typical in Commission practice
11 with objections to the discovery and then both
12 emailed a copy of that letter to Mr. Mershon and
13 sent a hard copy of the letter to Mr. Mershon.

14 I also -- with the e-mail, I also copied
15 Ms. Giboney so she would have a copy of it as well.
16 And then when -- after you scheduled this discovery
17 conference, I emailed you a copy of the letter as
18 well so you would have a copy of the objections
19 prior to this discovery conference.

20 JUDGE JORDAN: Okay. I think that's a
21 pretty good synopsis of my understanding. Thank
22 you for setting that forth more clearly than I
23 could have done.

24 So what we have in staff objections are
25 several things, relevance, not reasonably

1 calculated to lead to the discovery of admissible
2 evidence, confidential information pursuant to
3 statute, and then finally vague, unintelligible and
4 unduly burdensome.

5 First, I'd like Staff Counsel to address
6 the confidentiality issue.

7 MR. KEEVIL: Yes, Judge. Judge, the --
8 I'm not entirely sure how to read all of these
9 requests from Mr. Mershon. But I'm assuming --
10 because he says all documents pertaining to and
11 then gives various -- various matters, and those
12 documents are not limited to him.

13 They -- they -- they conceivably could be
14 -- the request could be read to encompass all
15 documents within the possession of the Staff
16 relating not only to Mr. Mershon but to any
17 Complainant we've received a complaint from,
18 especially any complaint regarding Ameren.

19 And possibly even broader than that. It
20 might even be able to be read to -- to go beyond
21 that and -- and so just any complaint and
22 information we have received is -- is requested as
23 it pertains to, you know, African-Americans or
24 people with disabilities or low income or things of
25 that nature, and any type -- any of that type

1 information would be confidential.

2 You've got Section 386.480 which would
3 make it confidential. I can't off the top of my
4 head remember the customer-specific confidentiality
5 statute, but I know 386.480 would make it
6 confidential.

7 And, I mean, we can't be disclosing other
8 customers' information to even -- even Ameren for
9 that matter, but, certainly, not to Mr. Mershon.
10 And, you know, because like I said, these requests
11 aren't even limited to his information.

12 And even there, to the extent that he's
13 requesting information we've received in a
14 confidential matter from Ameren, Section 386.480
15 would make that information we received from Ameren
16 confidential if it was received outside of the
17 discovery process, which it -- it most definitely
18 would have been because, you know, we've -- we've
19 regulated Ameren on lots of matters and not just as
20 in regard to Mr. Mershon.

21 So that's my concern regarding
22 confidentiality. These requests aren't limited.
23 They -- they aren't -- they aren't specific to
24 Mr. Mershon. And like I said, even if they were
25 specific to Mr. Mershon, without consent by Ameren

1 or an order from the Commission, I'm not even sure
2 we could -- we could provide information we receive
3 from Ameren per 386.480. So --

4 JUDGE JORDAN: And the things you stated
5 about the lack of limit as to time or geography,
6 does that also go to your unduly burdensome
7 argument?

8 MR. KEEVIL: Yeah.

9 JUDGE JORDAN: Okay. Very good. Anything
10 you want to add before I go to Mr. Mershon?

11 MR. KEEVIL: Not on that one.

12 JUDGE JORDAN: Okay. Very good.

13 Mr. Mershon, do you have anything to say about
14 that?

15 MR. MERSHON: First of all, Mr. Keevil,
16 you are very dishonest. You're the one that told
17 me that things need to be changed at the very
18 beginning of this complaint.

19 When I talked to you over the phone, you
20 said, You know what? I do agree with you. I think
21 a lot of things need to be changed. I said, Okay.
22 Good. I'm glad you're on my side. You said, Well,
23 I'm here to represent the Commission, but I think
24 you have a point. There's a lot of things that
25 need to be changed, and it should be done as soon

1 as possible. I said, Okay.

2 Now you're saying how you object to stuff.

3 I mean, everything that I have is directed towards
4 my case. I am not asking for stuff dealing with
5 any other geographical area. When I ask for stuff,
6 it all deals with me. It has nothing to do with
7 Joe Blow over across the street. It has to do with
8 me. And that's why I asked.

9 And I want to also make it very clear on
10 the record, there will be no hearing with me in it
11 until discovery is complete. You're making it very
12 difficult because you're not giving me what I ask
13 for.

14 I'm not asking for any confidential
15 information dealing with anybody else. I'm asking
16 for information that concerns me and how I have
17 been treated.

18 And the reason I'm asking for the
19 documents that I'm asking for is to see that --
20 that you're following them appropriately. You
21 aren't doing it, for example, that one I asked for
22 that deals with people with disabilities, you want
23 their -- to have their -- select, you know, know
24 what kind of electrical equipment they have.

25 But if you disconnect them, they're still

1 in problems anyway. And no matter if it's done
2 because of non-payment or anything else, you all
3 are very crude and rude because you do not treat us
4 with respect.

5 That's what basically this case is about.
6 You're rambling around about statutes and tariffs
7 and stuff. It's about how you treat us, not
8 only --

9 JUDGE JORDAN: Let me ask -- I'm going to
10 interrupt and I'm going to ask Staff Counsel
11 something about Staff's position. And I am
12 referring to 4 CSR 240-2.070 with regard to
13 complaints. And I am looking at subsection 15,
14 paragraph D in which Staff's role in this
15 proceeding is described.

16 I'm going to read. The member or members
17 of the Commission Staff who investigate the
18 complaint shall be available as a witness at the
19 hearing if the Regulatory Law Judge or any party
20 wishes to call them to testify. Staff shall not
21 advocate a possession beyond reporting the results
22 of its investigation. If Staff believes it should
23 advocate a position, it shall file a motion to
24 change the status of the complaint under subsection
25 B of this section.

1 Is Staff planning to advocate any position
2 beyond the results of its investigation, Counsel?

3 MR. KEEVIL: Judge, we had not planned to.

4 JUDGE JORDAN: All right.

5 MR. KEEVIL: You've got -- you've had the
6 report for several months.

7 JUDGE JORDAN: Right.

8 MR. KEEVIL: A couple things. If I could
9 mention something Mr. Mershon said there -- and
10 this may get confidential, so I don't know if you
11 want to go in -- since anything on these things --

12 JUDGE JORDAN: Let's -- can you address
13 this without divulging confidential information?

14 MR. KEEVIL: Probably.

15 JUDGE JORDAN: Let's give that a try
16 first.

17 MR. KEEVIL: Yeah. Mr. Mershon said that
18 his requests were limited to his complaint. And I
19 think if you read the report -- or the request, you
20 can see that's not the case.

21 But even if it was, when I received these
22 requests, I inquired of -- of the Consumer Services
23 Department. And as you will see in the report, you
24 won't see them all, but over the years, Mr. Mershon
25 has been quite a frequent filer of complaints with

1 the Commission.

2 So even if it was limited to complaints he
3 had filed, I'm -- I'm told there have been over 50
4 files that -- that would involve only complaints
5 filed by Mr. Mershon. So you -- you still have a
6 rather wide swaft to be investigated there even if
7 it was limited to his.

8 JUDGE JORDAN: Okay. Thank you. Mr.
9 Mershon, anything to add as to the objections that
10 Staff has raised to your document production
11 requests? Because I want to keep it confined to
12 that.

13 MR. KEEVIL: I had some other objections.

14 JUDGE JORDAN: Oh, I'm sorry. Yes.
15 Counsel, go ahead and speak to your objections a
16 little bit more, and then we'll get back -- get
17 back to Mr. Mershon.

18 MR. KEEVIL: The -- I think it's important
19 that you keep in mind, and I think you have, what
20 this case is about. I mean, it's a complaint case
21 by Mr. Mershon against Ameren Missouri and
22 according to the -- the statutes according to the
23 Commission rules.

24 The grounds for a complaint is whether or
25 not Ameren has violated its tariffs, statutes,

1 rules, orders or decisions of the Commission.

2 Okay? That's it. I know Mr. Mershon would like it
3 to be something else, but that's the basis for
4 complaints.

5 If you look at requests that he has
6 directed to the Staff, again, assuming they are to
7 the Staff, those requests are irrelevant as to
8 whether or not Ameren has violated any Commission
9 order, statute, rule, regulation or Ameren's tariff
10 because he's asking for documents that the -- the
11 Commission Staff has pertaining to outages or
12 pertaining to -- like the first eight, for example,
13 relate to staff's viewpoints. Got nothing do with
14 whether Ameren violated anything.

15 The -- the next ones there, they talk
16 about documents. Again, those documents don't go
17 to whether or not Ameren violated anything that
18 would constitute grounds for a complaint.

19 The last several of them, he's getting
20 into the due process -- the due process argument
21 again and the due process system and, I assume, at
22 the Commission rather than at Ameren.

23 But, again, it's -- it's a due process
24 system at the Commission is what he's talking
25 about. Again, that's not grounds for a complaint

1 against Ameren.

2 Documents regarding supervisory staff
3 within the Commission's Customer Service
4 Department. Again, irrelevant to whether Ameren
5 has violated any statute, rule, reg., or tariff.

6 So when you -- when you read these
7 requests in light of what constitutes grounds for a
8 complaint, they're clearly irrelevant.

9 MS. GIBONEY: Judge, may I -- may I add
10 something to that?

11 JUDGE JORDAN: You may. And then we'll
12 get to Mr. Mershon.

13 MS. GIBONEY: On a very similar note, a
14 number of the requests like, for example, the
15 request relating to relations with
16 African-Americans or people with disabilities or
17 the indigent, you know, what can be brought up in a
18 complaint has to do directly with Mr. Mershon.

19 He's not allowed to bring a class action.
20 He's not allowed to otherwise try to represent the
21 interests of -- of a certain population or group.

22 And to the extent he's seeking information
23 that relates to, you know, a whole body of other
24 people, that also makes it irrelevant because it's
25 not grounds for a complaint that he personally has

1 that's based on a violation of the statute rule
2 order or tariff.

3 JUDGE JORDAN: Okay. Mr. Mershon, as to
4 the objections that you've heard, and upon which
5 Counsel has expounded, do you have any response
6 further to make?

7 MR. MERSHON: First of all, I mean, okay,
8 again, all the things that I mentioned is how I've
9 been treated as a person with a disability, as an
10 African-American, as a person who is indigent.

11 I'm not the only one that is experiencing
12 this. I'm the only one that's speaking bout it,
13 though. But the -- the documents I've asked for
14 deal we that.

15 I mean, we -- it's not about your tariffs
16 because you are always -- you know, you get away
17 with doing whatever you want and then lying, say
18 that you're following tariffs, and you have -- you
19 work with the stand your ground on all of that.
20 Even though it's not in Missouri, you agree with
21 this and you fight for -- against people who have
22 these things.

23 And this is why I am fighting to get what
24 I need because you all are the -- in the end,
25 you're charging me more. Your customer service is

1 bad on all aspects. It's not very good. You don't
2 want to do anything. You threaten. So why are you
3 trying to do your thing and then trying to say,
4 Well, you haven't violated any tariffs?

5 When you treat us bad, you're violating
6 tariffs. When you treat what other ethnic group or
7 whatever other type of group that you have, you're
8 violating tariffs. You get away with this, doing
9 this, and you get away with doing this because of
10 the color of your skin and your control.

11 JUDGE JORDAN: Mr. Mershon, can I get you
12 to expound a little bit on the stand your ground
13 reference you made.

14 MR. MERSHON: There is a law not in
15 Missouri that's called Stand Your Ground, and you
16 get to still somebody if that person is threatening
17 you and doing bodily harm to you.

18 And those are the two cases that are in
19 the news with this. One was with Trayvon Martin.
20 The other is with another guy that was killed
21 because a white man refused -- they refused to turn
22 down their music.

23 So he took the gun out and shot them.
24 It's basically how you all are doing us, but you
25 don't do it with a gun. You do it with turning off

1 our electricity and being rude and crude to us over
2 the phone and saying that you have all these
3 things.

4 The only time you treat us decently is
5 when the CAA promises you money. You don't treat
6 us decently as far as, you know -- until those
7 types of things.

8 If you -- if we pay you, you treat with us
9 with dignity. If we're unable to pay you, you
10 don't treat us with dignity. And if it is
11 necessary, I will dismiss this case and take it to
12 Federal Court if I can't get any cooperation from
13 you.

14 I've already told you, Mr. Jordan, that I
15 will write to the Disciplinary Committee and tell
16 them how I've been treated by the attorneys. But
17 I'm trying to work with you.

18 I'm trying to do it as fast as I can. And
19 I'm unable -- I don't have the staff that you have.
20 I don't have people to type for me. I have to send
21 it to someone, and they type it and send it back to
22 me.

23 But, again, I feel that I'm being treated
24 very unfairly because of your unfair tariffs and
25 your unfair regulations.

1 The things that I've asked for are to help
2 me to enhance my case. You have availability of
3 things that you -- you -- and I don't have them.
4 So I don't know if you're telling me the truth or
5 not. You could say whatever you want. And --

6 MS. GIBONEY: Judge, may I just say that
7 all the tariffs are available and all the
8 regulations are available to Mr. Mershon.

9 JUDGE JORDAN: That's all set forth in
10 your objections to the discovery. I think that
11 we're getting redundant now, and we're hearing the
12 same arguments over and over again, so I'm ready to
13 make my ruling.

14 First, I'm going to -- and I will issue
15 this in written formula later today, but I want
16 everyone to know what's going on so that they can
17 get to work immediately and not have to wait for a
18 written version of my order.

19 So here's what I'm going to do. As to the
20 timeliness of the service, it doesn't look to me
21 like either Staff or the company was prejudiced.
22 They were able to get their objections in on the --
23 by the expedited deadline that they volunteered to
24 do.

25 So I -- I don't think that's a -- a basis

1 for any -- any -- I don't think that supports
2 disallowing the discovery.

3 But I will sustain the objections because
4 I think they're well-founded in -- in law and, in
5 fact, for the reasons that the objections set forth
6 and what we've heard today.

7 So I will not enforce any of this
8 discovery. Having gone through all of it, each and
9 every one of them, I cannot find grounds to enforce
10 this over the objections timely raised and
11 supported.

12 I'll issue a written version of this order
13 later today. And a week from tomorrow, we will
14 convene the evidentiary hearing on the merits of
15 Mr. Mershon's complaint.

16 MS. GIBONEY: Judge, may I ask a question?

17 JUDGE JORDAN: You may.

18 MS. GIBONEY: The discovery period is
19 closed; is that correct, Judge?

20 JUDGE JORDAN: Well, yes. We've gone past
21 all the deadlines that were set forth in the
22 Commission's order, including the deadline for
23 serving discovery, which was Mr. Mershon's
24 suggestion. So that's right.

25 That's -- we're sticking to the schedule

1 to answer your question briefly.

2 And with that, I think we are done with
3 this hearing. We are going to adjourn, and we will
4 go off the record. And I'm going to hang up the
5 line now. And good day, everyone.

6 MS. GIBONEY: Thank you, Judge.

7 (The proceedings were concluded at 10:55 a.m. on
8 February 19, 2014.)

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1 REPORTER'S CERTIFICATE

2

3 STATE OF MISSOURI)

) ss.

4 COUNTY OF OSAGE)

5

6 I, Monnie S. Mealy, Certified Shorthand Reporter,
7 Certified Court Reporter #0538, and Registered Professional
8 Reporter, within and for the State of Missouri, do hereby
9 certify that I was personally present at the proceedings as
10 set forth in the caption sheet hereof; that I then and there
11 took down in stenotype the proceedings had at said time and
12 was thereafter transcribed by me, and is fully and accurately
13 set forth in the preceding pages.

14

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20 Registered Professional Reporter

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