

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Union Electric Company, d/b/a)	<u>File No. ER-2011-0028</u>
Ameren Missouri's Tariff to Increase Its Annual)	Tariff No. YE-2011-0116
Revenues for Electric Service)	

ORDER DENYING STAFF'S MOTION TO QUASH DEPOSITION

Issue Date: April 21, 2011

Effective Date: April 21, 2011

On April 18, 2011, the Commission's Staff filed a motion asking the Commission to quash Ameren Missouri's deposition of Staff witness Lena Mantle, which Ameren Missouri scheduled for April 25. Staff complains that this would be the second deposition of Ms. Mantle as Ameren Missouri previously deposed her on April 13. Staff also objects that this second deposition, scheduled for the day before the hearing begins, is "unnecessary, oppressive, harassing, and will obstruct and impede Staff's preparation for the evidentiary hearing"

Ameren Missouri responded to Staff's motion to quash on April 20. Ameren Missouri contends the second deposition is necessary to question Ms. Mantle about new allegations she made, and new positions she took in her surrebuttal testimony, which was filed after her initial deposition.

Staff, as the party opposing discovery, has the burden of showing good cause to limit discovery.¹ A protective order limiting discovery should be issued if "annoyance, oppression, and undue burden and expense outweigh the need for discovery."² It is

¹ *State ex rel. Ford Motor Co. v. Messina*, 71 S.W.3d 602, 607 (Mo. 2002).

² *Id.*

reasonable for Ameren Missouri to question Ms. Mantle about new allegations and new positions set out for the first time in her surrebuttal testimony, which was filed on April 15, after her initial deposition. Furthermore, a deposition for the purpose of asking those questions should not be unduly burdensome or oppressive. In general, the Commission is concerned about discovery continuing until the eve of the hearing and the potential for abuse that occurs in those circumstances. However, in this case the Commission has not placed a limit on the time for depositions and Staff has not established sufficient cause to establish such a limit at this late date.

Staff has not shown good cause to quash Ameren Missouri's deposition of Ms. Mantle and the Commission will deny Staff's motion.

THE COMMISSION ORDERS THAT:

1. Staff's Motion to Quash Deposition is denied.
2. This order shall become effective immediately upon issuance.

(S E A L)

BY THE COMMISSION



Steven C. Reed
Secretary

Morris L. Woodruff, Chief Regulatory
Law Judge, by delegation of authority
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 21st day of April, 2011.