

ORIGINAL

**OFFICIAL FILE
ILLINOIS COMMERCE COMMISSION**

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

FILED *SPM*
COMMERCE COMMISSION

2010 JUN 21 A 11:15

CHIEF CLERK'S OFFICE

TRI-COUNTY ELECTRIC COOPERATIVE, INC.)
)
Complainant,)
)
vs.)
)
ILLINOIS POWER COMPANY d/b/a AMERENIP,)
)
Respondent.)

DOCKET NO. 05-0767

MOTION TO COMPEL
BY TRI-COUNTY ELECTRIC COOPERATIVE, INC.

TRI-COUNTY ELECTRIC COOPERATIVE, INC. (Tri-County), Complainant, by its attorneys GROSBOLL, BECKER, TICE, TIPPEY & BARR, herewith files its Motion to Compel against ILLINOIS POWER COMPANY d/b/a AMERENIP (IP), Respondent, pursuant to 83 Ill Adm Code Section 200.335(5)-200.430 and Illinois Supreme Court Rules 201 and 219 and in support thereof states as follows:

1. On December 6, 2005, Tri-County filed its complaint in the above matter. On or about March 15, 2006 IP filed its answer to Tri-County's complaint.
2. The parties have engaged in discovery consisting of the exchange of data requests and answers thereto along with inspections of the property comprising the site where the electric service dispute exists and taking of depositions.
3. The relevant case schedule has been:
 - A. August 2, 2006 - IP to respond to Tri-County's initial data request/discovery.

B. October 27, 2006 - IP to respond to Tri-County's supplemental data request/discovery.

C. February 7, 2007 - Tri-County filed its amended complaint including additional service connection points of the customer at the site in question.

D. February 16, 2007 - IP filed its answer to Tri-County's amended complaint.

E. Status hearings regarding the first round of discovery were held at the Commission on February 21, 2007; March 29, 2007; May 1, 2007; June 26, 2007; and August 23, 2007. The discovery matters were resolved by the parties.

5. Motions for Summary Judgment were filed by both Tri-County and IP and both were denied by ruling of the Administrative Law Judge dated February 20, 2009.

6. On April 2, 2009, a schedule was put in place for filing prepared testimony by the parties during the period July 27 through October 5, 2009 which schedule was extended at the request of IP with prepared testimony to be filed during the period October 5 through December 4, 2009 and which schedule was further extended with the parties' direct and rebuttal testimony subsequently being filed by January 28, 2010 and trial scheduled for March 31 and April 4, 2010. The trial schedule was continued due to difficulties with Exhibit lists filed in preparation for trial.

7. IP then requested and was granted on April 9, 2010 leave to file additional direct testimony. IP filed additional direct testimony from three new witnesses and supplemental direct testimony from two original IP witnesses presenting new testimony not heretofore presented by IP. A new schedule was put in place for Tri-County to respond with rebuttal testimony scheduled to be filed on June 15, 2010 which was extended to July 12, 2010. A new

trial schedule was put in place for September 8, 9 and 10, 2010.

8. Tri-County served a Fourth Supplemental Data Request consisting of ten data requests directed to the additional IP Direct Testimony and Supplemental Direct Testimony.

9. IP filed its response to Tri-County's Fourth Supplemental Data Request objecting to all ten Data Requests. Counsel exchanged correspondence on June 9, 2010 and June 14, 2010 regarding IP's objections in an attempt to resolve the discovery issues. (See Exhibit 1 and Exhibit 2 attached). Counsel for the parties has been unable to resolve the discovery dispute.

10. IP's additional Direct Testimony consisted of prepared testimony from current Citation employees who provided testimony regarding the following subject matters:

- A. As background for Tri-County's Motion to Compel, Jeffery Lewis, Engineering Manager for the Salem Oil Field testified in Direct Testimony filed November 6, 2009:
 - a) His group at Citation managed the Salem oil field in the past but not currently.
 - b) General history of the Salem Oil field both prior to Citation's acquisition in December 1998 and after Citation's acquisition of the oil field including:
 - (1) The number of wells during Texaco's peak operation of the field and at the time of Citation's acquisition and currently.
 - (2) The type of products produced from the oil field both during Texaco's ownership and Citation's ownership.
 - c) The gas plant and the gas extraction process operated by Citation, and the process for delivering gas extracted from the wells to the gas plant.
 - d) The source of electric power for the oil field, a history of the IP electric service to the oil field, and the distribution of the electric power by the Citation electric distribution system to the oil wells in the Salem field.
 - e) That Citation needs a single electric provider for the gas plant, wells, and compressor sites so that if electric power is lost to any one part of the gas extraction process all parts of the system will be shut down.
- B. Jeffrey Lewis in his Supplemental Direct Testimony filed April 26, 2010 testified generally:

- a) That it was not practical for Citation to install switches to provide for automatic shut off of the gas plant and/or compressor sites if electric power was supplied by two different electric suppliers and power was lost from one supplier.
 - b) That the gas plant is interconnected with the electrical system serving the oil field.
- C. Illinois Power's witness, Josh Kull, a Developmental Geologist and Citation employee, testified:
- a) Regarding the number of oil production wells drilled and activated at the Salem oil field since the 1970's.
 - b) Sponsored Illinois Power exhibits 11.2, 11.3, 11.4 prepared under his direction consisting of maps showing, based upon Citation business records since the 1970's, the location of all production wells drilled and activated at the Salem oil field since the 1970's.
- D. Illinois Power's witness, Michael Garden a current Citation employee and Senior Production Forman for the Salem oil field, testified:
- a) About Citation's electric distribution system.
 - b) Citation's oil collection system.
 - c) Sponsored maps depicting both systems.
- E. Illinois Power's witness, Robert C. Herr a petroleum engineer, testified:
- a) About the unitization of the Salem oil field and the reasons therefore.
 - b) The history of the Salem oil field from the early 1950's to the present time.
 - c) The number of production wells drilled and activated from the 1970's to the present time.
 - d) The Citation/Texaco electric distribution system.
 - e) The type of power used by Citation/Texaco to operate wells and the oil and gas collection system.
 - f) The size of motors used by Citation/Texaco to operate the wells and oil

and gas collection system.

- g) The type of power and size of motors used to operate various special projects to enhance recover of oil in the Salem oil field.

11. Tri-County's Fourth Supplemental Data Request to which IP has filed general objections and has not otherwise fully responded to are as follows:

DATA REQUEST NO. 1: Provide all documents evidencing the wells identified on IP Respondent Exhibits 11.2, 11.3 and 11.4 that have been either plugged and/or temporarily abandoned and identify such wells on the IP Respondent Exhibits 11.2, 11.3 and 11.4 by identification of the well by number and location as set forth on IP Respondent's Exhibit 11.1.

ANSWER: IP objected claiming it has already produced all information in its possession responsive to the request.

DATA REQUEST NO. 2: Describe in detail the use, function, purpose, and mechanical operation of tank batteries as used in the Salem Oil Field.

ANSWER: IP objected claiming it does not have possession of or access to the requested information and the same is overly broad, unduly burdensome, beyond the scope of the testimony offered and the information is irrelevant.

DATA REQUEST NO. 3: Describe in detail the electrical facilities utilized to operate tank batteries in the Salem Oil Field. In doing so, provide the following information:

- a. The size and horsepower of electric motors used to operate the tank batteries.
- b. The electrical load created by such motors.
- c. The power arrangements required for operation of the tank battery including the size of transformers, the electric connections and associated equipment.
- d. The kw connected load for a tank battery.

ANSWER: IP objected claiming it does not have possession of or access to the requested information and the same is overly broad, unduly burdensome, beyond the scope of the testimony offered and seeks irrelevant information. IP further claimed it does not operate or exercise control over the Salem Oil Field or Citation's electric distribution system.

DATA REQUEST NO. 4: Describe the purpose, function, and mechanical operation and

provide a description of all electrical power devices and/or motors utilized to operate the following oil field collection components identified on IP Respondent Exhibit 10.1

- a. Lime transit trunkline.
- b. Lime producer fiberglass flowline.
- c. Sand transit trunkline.
- d. Sand producer fiberglass flowline.
- e. Scraper traps.

In doing so, provide a detailed description of the electrical service components required for operation of each of the above including the size of the electrical components together with the kw connected electric load required for operation of each of the above.

ANSWER: IP objected claiming it does not have possession of or access to the requested information and the same is overly broad, unduly burdensome, beyond the scope of the testimony offered and seeks irrelevant information. IP further claimed it does not operate or exercise control over the Salem Oil Field or Citation's electric distribution system.

DATA REQUEST NO. 5: Provide the location of all electrical facilities including service connection points utilized to operate the collection facilities identified in Data Request No. 4 and on IP Respondent Exhibit 10.1.

ANSWER: IP objected claiming it does not have possession of or access to the requested information and the same is overly broad, unduly burdensome, beyond the scope of the testimony offered and seeks irrelevant information. IP further claimed it does not operate or exercise control over the Salem Oil Field or Citation's electric distribution system.

DATA REQUEST NO. 6: State whether or not any water injection wells are in operation at the present time in the Salem Oil Field and if so, describe in detail the electrical facilities required to operate the same.

ANSWER: IP objected claiming it does not have possession of or access to the requested information and the same is overly broad, unduly burdensome, beyond the scope of the testimony offered and seeks irrelevant information. IP further claimed it does not operate or exercise control over the Salem Oil Field or Citation's electric distribution system.

DATA REQUEST NO. 7: State whether or not any pumping stations are currently in use in the Salem Oil Field for operation of water injection wells. If so, provide the following information:

- a. State the location of such pumping stations in relationship in IP Respondent Exhibit 11.4.
- b. Described in detail the electric facilities utilized to operate the pumping station

including transformers; electrical connections and associated equipment; electrical motors, identifying the size of such motors; and the kw connected load for each such pumping station.

ANSWER: IP objected claiming it does not have possession of or access to the requested information and the same is overly broad, unduly burdensome, beyond the scope of the testimony offered and seeks irrelevant information. IP further claimed it does not operate or exercise control over the Salem Oil Field or Citation's electric distribution system.

DATA REQUEST NO. 8: With respect all wells in the Salem Oil Field operated by use of electrical power, provide the following:

- a. Detailed description of the electrical facilities utilized to operate such well or wells.
- b. Number of electrical motors utilized for such wells.
- c. The size and horsepower of the electrical motors used for such wells.
- d. The size and number of transformers utilized at the electrical service connections for such wells.
- e. The kw connected electric load for such well sites.

ANSWER: IP objected claiming it does not have possession of or access to the requested information and the same is overly broad, unduly burdensome, beyond the scope of the testimony offered and seeks irrelevant information. IP further claimed it does not operate or exercise control over the Salem Oil Field or Citation's electric distribution system. IP also objected claiming the term "electric service connections" is vague and ambiguous and calls for a legal conclusion as to its meaning.

DATA REQUEST NO. 9: Describe in detail the electrical distribution system as identified and described on IP Respondent Exhibit 10.2 utilized by Citation for distribution of electric power from the IP Texas Substation to the various user points in the Salem Oil Field and in doing so, provide the following information:

- a. The number of circuits.
- b. Total miles of distribution lines operated by Citation in the Salem Oil Field.
- c. The size and type of the conductors utilized on each distribution circuit.
- d. The electrical load served by each circuit in 2000 and at the present time to and including the number of wells and/or other points of electric usage along each circuit comprising the Citation electrical distribution system.
- e. The upgrades or removals/abandonment of the Citation electrical distribution system from the time Citation acquired the Salem Oil Field to the present time stating the date of upgrade or abandonment/removal and a detailed description of the upgrade.

ANSWER: IP objected claiming it does not have possession of or access to the requested information and the same is overly broad, unduly burdensome, beyond the scope of the testimony offered and seeks irrelevant information. IP further claimed it does not operate or exercise control over the Salem Oil Field or Citation's electric distribution system. IP also objected claiming the term "user points" is vague and ambiguous and calls for a legal conclusion as to its meaning.

DATA REQUEST NO. 10: Describe in detail the 1960's Devonian Waterflood Project and the 1981 Enhanced Oil Recovery Operation, being two projects referred to at page 6 of the Direct Testimony offered by Robert C. Herr. In doing so, provide the following information:

- a. The date each project commenced.
- b. The location of each project in reference to the IP Respondent Exhibits 10.1, 10.2, 11.2, 11.3 and 11.4.
- c. A detailed description of the electrical facilities utilized to operate each project including but not limited to the size and number of transformers, size and number of motors and kw connected electric load utilized at each project site.
- d. State the location of the service connection point on the Citation/Texaco distribution line for each of the two projects.
- e. Describe the apparatus and facilities such as transformers, switches and associated equipment, comprising the service connection point with the Citation/Texaco distribution line of each of the two projects.

ANSWER: IP objected claiming it does not have possession of or access to the requested information and the same is overly broad, unduly burdensome, beyond the scope of the testimony offered and seeks irrelevant information. IP further claimed it does not operate or exercise control over the Salem Oil Field or Citation's electric distribution system. IP also objected claiming the term "service connection point" is vague and ambiguous and calls for a legal conclusion as to its meaning.

12. IP's objection to each of the foregoing ten data requests are not valid because the data requests are directly raised with respect to testimony provided by IP witnesses who are Citation employees Josh Kull, Michael Garden, and Jeffrey Lewis as well as IP's outside expert, Robert C. Herr, who was a former Texaco employee and worked with the Salem Oil Field. Further, IP's objection based on IP's claim it does not have access to the information requested is without merit since the Citation employees IP presented as IP's witnesses either possess the knowledge or have access to the necessary information to answer Tri-County's data request as

follows:

- Data Request No. 1: Tri-County asks IP to identify on Exhibits 11.2, 11.3 and 11.4 the wells and locations of each that have been capped or temporarily abandoned. IP witness, Josh Kull has that knowledge because the same Citation business records used to create the exhibits depicting the 98 wells drilled and opened also contains the information identifying which of the 98 wells drilled have been capped or temporarily abandoned.
- Data Request No. 2: Tri-County asks IP to explain the use, and mechanical operation of the tank batteries identified on Michael Garden's Exhibit 10.1. Michael Garden as IP's witness and Senior Production Forman for Citation can provide the answer to Data Request No. 2.
- Data Request No. 3: Tri-County asks for a description of the electric facilities used to operate the tank batteries by size; electric load; power arrangements for operating the same; and kW connected load. Michael Garden as Citation's Senior Production Forman can answer such questions or knows who among the Citation employees can provide that information.
- Data Request No. 4: Tri-County requests information as to the function and mechanical operation of the oil collection facilities identified by Michael Garden on IP Exhibit 10.1. Michael Garden testified the map represented by Exhibit 10.1 is kept under his supervision. IP has presented him as its witness knowledgeable about the subject of Exhibit 10.1. He can provide the answer to Request No. 4.
- Date Request No. 5: Tri-County requests the identity of electric facilities including service connection points utilized to operate the oil collection facilities identified on IP Exhibit 10.1. Michael Garden sponsored Exhibit 10.2 identifying the Citation electric distribution system. He can certainly combine the two exhibits into one map showing Citation's electric facilities in relationship to the two tank batteries, and the other collection facilities identified on IP Exhibit 10.1.
- Data Request No.6: Tri-County requests information about electric facilities for water injection wells currently in operation in the Salem oil field. IP witness Michael Garden as Senior Production Forman is certainly knowledgeable regarding such.
- Data Request No. 7: Tri-County requests that location of pumping stations be noted on

IP Exhibit 11.4 and a description of electric facilities used to operate the same. IP witness Michael Garden as Senior Production Forman of the Salem oil field sponsored the map of the Salem Oil field which is IP Exhibit 10.1 and depicts a pumping station. IP witness Josh Kull sponsored IP Exhibit 11.4 which is a map of the Salem Oil field. Michael Garden has knowledge of the location of all pumping stations and can place the location of the same on the relevant IP map exhibits.

Data Request No. 8: Tri-County requests information regarding the electric facilities used to operate wells in the Salem oil field. The information requested includes size and horsepower of electric motors; number of electric motors per well; size and number of transformers used per well; and kW connected load. IP witness Michael Garden, Senior Production Foreman, would have such knowledge or know which person at Citation to ask for such information.

Data Request No. 9: Tri-County requests a description of the Citation electric distribution line to include:

- a) number of circuits;
- b) size and type of conductors;
- c) electric load served by each circuit;
- d) description of the upgrades and abandonment of the Citation electric distribution circuit.

Michael Garden as Citation's Senior Production Forman at the Salem field would have this knowledge or know from whom such knowledge could be obtained such as the two electricians who work under Mr. Garden's supervision.

Data Request No. 10: Tri-County requests a description of the 1960's Devonian Waterflood Project and 1981 Enhanced Oil Recovery Operation both of which were mentioned in IP witness Robert Herr's testimony. The information requested includes:

- a) The electric facilities used for the project;
- b) The location of electric service connection points for the project.
- c) A description of the electric facilities used with respect to the project.

IP presented its witness Robert Herr who testified about these projects but omitted much of the above information. IP mentioned Robert Herr's project file may have information about

the projects but failed to produce the same or even to identify such files. Either IP's witness has this information available to him and can provide it or simply doesn't know the answers to the question in which case IP should so state.

WHEREFORE, Tri-County Electric Cooperative, Inc. requests the following relief:

A. That the Administrative Law Judge enter an Order compelling Illinois Power Company d/b/a AmerenIP to fully respond to the foregoing Fourth Supplemental Data Requests of Tri-County on or before July 30, 2010.

B. That failure to respond fully to such Fourth Supplemental Data Requests by such date shall bar IP from presenting the testimony of witnesses Josh Kull, Michael Garden and Robert C. Herr or any defense to the complaint and/or amended complaint filed herein by Tri-County for service rights to the Citation gas plant and gas compressor site as identified in the amended complaint filed herein and relating to information requested by such Fourth Supplemental Data Requests.

C. For such other and further relief as the Administrative Law Judge and Illinois Commerce Commission deems equitable.

TRI-COUNTY ELECTRIC COOPERATIVE, INC.,
Complainant

By: GROSBOLL, BECKER, TICE, TIPPEY & BARR

By:  _____

GROSBOLL BECKER TICE TIPPEY & BARR

Attorney Jerry Tice
101 East Douglas Street
Petersburg, Illinois 62675
Telephone: 217-632-2282
Fax: 217-632-5189
email: ticej@ticippeybarr.com

PROOF OF SERVICE

I, JERRY TICE, hereby certify that on the 18th day of June, 2010, I deposited in the United States mail at the post office at Petersburg, Illinois, postage fully paid, a copy of the document attached hereto and incorporated herein, addressed to the following persons at the addresses set opposite their names:

Scott Helmholz
Jeffrey R. Baron
Bailey & Glasser LLP
1 North Old State Capitol Plaza
Suite 560
Springfield, IL 62701

Shelmholz@baileyglasser.com

Larry Jones
Administrative Law Judge
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

ljones@icc.illinois.gov



GROSBOLL, BECKER, TICE, TIPPEY & BARR
Attorney Jerry Tice
101 East Douglas Street
Petersburg, IL 62675
Telephone: 217/632-2282
ticej@ticetippeybarr.com

Tri-County - IP Mot Compel 0767./Jtelec