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

CASE NO. 05-0767

TRI-COUNTY ELECTRIC COOPERATIVE, INC. (TRI-COUNTY)
RESPONSE TO THE MOTION BY CITATION OIL & GAS CORP (CITATION) TO
CONCUR IN ILLINOIS POWER COMPANY dba AMERENIP (IP) MEMORANDUM
IN SUPPORT OF IP'S MOTION TO STRIKE TESTIMONY OF MARCIA K. SCOTT,
DENNIS IVERS, BRADLEY DALE GRUBB AND ROBERT C. DEW, JR. P.E.

Tri-County Electric Cooperative, Inc. (Tri-County) files herewith its Response in Opposition to the Motion by Citation Oil & Gas Corp (Citation) to concur in the Illinois Power Company dba AmerenIP (IP) Memorandum in Support of IP's Motion to Strike Portions of the Testimony of Marcia K. Scott, Dennis Ivers, Bradley Dale Grubb and Robert C. Dew, Jr., P.E., and in support thereof states as follows:

- I. TRI-COUNTY RESTATES ITS REPLY TO THE ILLINOIS POWER COMPANY dba AMERENIP (IP) MEMORANDUM IN SUPPORT OF IP'S MOTION TO STRIKE PORTIONS OF THE TESTIMONY OF TRI-COUNTY'S FACT WITNESSES, MARCIA K. SCOTT, DENNIS IVERS, AND BRADLEY DALE GRUBB AS AND FOR TRI-COUNTY'S REPLY TO THE MOTION BY CITATION TO CONCUR IN IP'S SUPPORTING MEMORANDUM.
- II. TRI-COUNTY RESTATES ITS REPLY TO THE ILLINOIS POWER COMPANY DBA AMERENIP (IP) MEMORANDUM IN SUPPORT OF IP'S MOTION TO STRIKE PORTIONS OF THE PREPARED TESTIMONY OF ROBERT C. DEW, JR. P.E. AS AND FOR TRI-COUNTY'S REPLY TO THE MOTION BY CITATION TO CONCUR IN IP'S SUPPORTING MEMORANDUM.
- III. CITATION'S MOTION TO STRIKE PREPARED REBUTTAL TESTIMONY OF ROBERT C. DEW, JR., P.E. (TRI-COUNTY EXHIBIT F), PAGE 10, LINE 9 SHOULD BE DENIED.

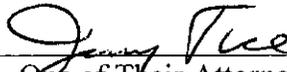
Citation moves to strike the portion of the prepared rebuttal testimony of Robert C. Dew, Jr., P.E. in Tri-County Exhibit F which appears at page 10, line 9 and is as follows: "...and motors could utilize the IP electric current." As noted in Tri-County's response filed June 8, 2011 to Citation's motion to strike that phrase, at the time Dew's prepared rebuttal testimony was filed on January 28, 2010, Citation was not even a party to the case and had provided no information regarding Citation's purchase of electric energy from a source other than IP. For that reason alone, Citation's motion should be denied.

Additionally, however, Citation points to an answer given by Dew on cross examination by IP's counsel whether or not the electric energy had been sold and title had been transferred from IP to Citation at the point where the Citation distribution line connected to the low side of the Texas Substation. Dew answered: "I would think so, yes." However, when asked by IP's counsel on cross examination if Citation owned the electricity at that point, Dew responded that Citation did own the electricity past the point of that connection, but the electricity had been generated by IP (Tr date 1/13/11, page 851). Further, the basis of Citation's objection to the above phrase in Dew's prepared rebuttal testimony (Tri-County Exhibit F page 10, line 9) appears to be that it is in conflict with Dew's other answer to an particular question asked of him on cross examination. However, a review of the Illinois Rules of Evidence (Supreme Court Rule 1102 effective January 1, 2011) indicates a claim that Dew's statement is in conflict with another statement of the witness is not a proper basis for striking Dew's testimony in question. Therefore, there is no basis for granting Citation's motion to strike the portion of Dew's testimony objected to by Citation.

For the above reasons, the foregoing motion by Citation Oil & Gas Corp to strike portions of the prepared testimony of each of Marcia K. Scott, Dennis Ivers, Bradley Dale Grubb, and Robert C. Dew, Jr., P.E. should be denied.

Respectfully submitted,

TRI-COUNTY ELECTRIC
COOPERATIVE, INC.

By  _____
One of Their Attorneys

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Tri-County Response to Concur/jtelec

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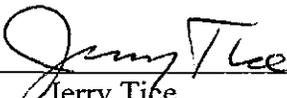
I, JERRY TICE, hereby certify that on the 30th day of June, 2011, I served a copy of the Affidavit attached hereto to the following persons at the e-mail addresses as shown below:

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