

ORIGINAL

OFFICIAL FILE
ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

AMCOR FLEXIBLES, INC.,

Complainant,

V.

Docket No. 11-0033

COMMONWEALTH EDISON COMPANY,

Respondent.

Complaint pursuant to Sections 9-250 and
10-108 of the Illinois Public Utilities Act
(220 ILCS 5/9-250 and 220 ILCS 511 0-1 08)
and Section 200.170 of the Rules of Practice
(83 Ill. Adm. Code 200.170)

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ILLINOIS COMMERCE
COMMISSION

Respondent's Response to Amcor's Motion to Strike Third Affidavit Of Thomas Rumsey and For Other Relief.

Here, Respondent Commonwealth Edison Company ("ComEd") respectfully submits to the Illinois Commerce Commission ("Commission") its Response to Amcor Flexibles Inc.'s ("Amcor") Motion that seeks to have the Third Affidavit of Thomas Rumsey be stricken and requests other relief related to Mr. Rumsey's earlier affidavits. For the reasons set out below, ComEd asks the Commission to deny all of Amcor's requested relief.

I. Introduction

On May 31, 2012, ComEd filed its *Reply in Support of Respondent's Motion to Strike Portions of Amcor's Pleadings and Legal Argument on Its Motion in Limine*. Attached thereto was the May 30, 2012 Affidavit of Thomas R. Rumsey.

Further, on May 31, 2012, ComEd filed its *Reply in Support of Respondent's Motion For Reconsideration of ALJ Ruling Denying a Hearing On the Motion in Limine*. Attached to this pleading was the same May 30, 2012 Affidavit of Thomas R. Rumsey.

II. The Instant Motion to Strike

Amcor sets out two reasons for its Motion to Strike, to wit:

1. The parties agreed, Amcor asserts, that the Stipulation is “the entire evidentiary record for this proceeding.” (Amcor Motion to Strike at 4).
2. In addition, Amcor argues, Mr. Rumsey’s Third affidavit bears no relevance and fails to support any of ComEd’s arguments. (*Id.* at 4). According to Amcor, it adds precisely nothing to ComEd’s opposition to the Motion in Limine. (*Id.* at 6). Amcor contends that the affidavit is simply an extended discourse about how meters work and are tested in general and how Mr. Rumsey “allegedly tested the Replaced Meter and other meters at Amcor’s premises, in particular.” (*Id.* at 4).

ComEd here responds to each of these assertions. It shows the Commission why the Third Affidavit was appropriate and necessary to rebut certain claims and correct misconceptions. Just as well, ComEd shows that Amcor itself opened the door to the Third Affidavit with a direct evidentiary challenge.

III. The Stipulation Does Not Contain All Facts Relevant and Material to A Decision on The Motion in Limine.

With its Motion in Limine, Amcor seeks “to bar ComEd from presenting evidence that the Replaced Meter under-billed Amcor’s electricity usage, including barring ComEd from presenting evidence that it *allegedly* tested the Replaced Meter.” (Motion in Limine at 12). More specifically, Amcor requests that Paragraph 36 of the Stipulation be stricken and that the allegations contained therein not be admitted into evidence for any purpose in this docket. (*Id.*)

Paragraph 36 in the Stipulation (that Amcor wants to bar) states that:

On September 24, 2009, Thomas Rumsey, System Meter Mechanic Special of ComEd tested Replaced Meter No. 140384879 and determined that one test pulse was sent to the optoport for every 1.2 watt-hours of power flying through the replaced meter. He then conducted a “long diagnostic” examination and found that the scaling factor was incorrect. In particular, Mr. Rumsey determined that ComEd had programmed the Replaced Meter with a scaling factor of 6 (resulting in a CPR of 4), rather than the correct scaling factor of 2 (resulting in a CPR of 12). Diagnostic test results are attached hereto as Exhibit 1. See Stipulation, ¶ 36 (filed December 22, 2011).

The Commission must be fully informed as to its relevance and credibility in the context of the proceeding, its probative value, the circumstances of its making, and all other related matters, in order to intelligently rule on Motion in Limine. For this reason, ComEd has pursued an evidentiary hearing on the matter. Notably, Amcor’s reliance on *Shimanovsky v. General Motors Corp.*, 181 Ill.2d 112, 692 N. E. 2d 286 (1998) does not

require anything much different. That is because, among the six factors that the Court set out for guidance in discovery sanctions, there is “the nature of the testimony or evidence” and the “prejudicial effect of the proffered testimony or evidence” at issue. 692 N.E. 2d at 290. Not knowing how the Commission would be ruling on ComEd’s Motion for Reconsideration of the Denial of an Evidentiary Hearing, or how it would respond to Amcor’s position on the relevance of *Shimanovsky*, ComEd prudently addressed these six factors and, in doing so, presented and relied on the Third Affidavit of Thomas Rumsey.

Amcor contends that the Stipulation is “the entire evidentiary record for this proceeding” and that the parties so agreed when the Stipulation of Facts and Undisputed Testimony was filed on December 22, 2011. (Amcor Motion to Strike at 4). As such, it argues, the Third Affidavit is an improper attempt to expand the evidence beyond the agreed record for the proceeding. (*Id.* at 6). It may be true that the Stipulation was to comprise the evidentiary record for the underlying proceeding, but there is no express indication that it was controlling on the Motion in Limine that was not yet formed or in existence on December 22, 2011. The stipulation itself states that it was “for the purposes of this proceeding only.” (Stipulation at 1). Yet, the only proceeding in existence at the time of its filing, was the complaint proceeding. Indeed, the Motion in Limine was only filed on January 26, 2012. Thus, there could not have been a meeting of the minds or assent on what facts were or would be important to the anticipated, but-not-yet-filed or seen motion.

In *Bloome v. Wiseman, Shaikewitz, et al.*, 664 N.E.2d 1125 (5 Dist. 1996), the issue was whether the trial court was bound by the parties’ stipulation. There, it was observed that stipulations are not necessarily conclusive. In the exercise of sound judicial discretion, the opinion reasoned, and “to further the ends of justice,” a trial court can relieve the parties from stipulations. *Id.* at 1132. Similarly, in *Cates v. Morgan Potable Building Corp.*, 780 F.2d 683 (7th Cir. 1985), the Court recognized that while stipulations are to be encouraged in order to economize on the costs of litigation, a judge has the power to relieve a party from a stipulation when it is reasonable to do so. *Id.* at 690. In the instant situation, ComEd maintains, it is fair, just and reasonable that the Third Affidavit of Thomas stand.

At bottom, and as ComEd previously asserted:

A motion in *limine*, like any other motion, is directed to the Commission’s sound discretion. The Commission’s rules set out the standards for exercising discretion. 83 Ill. Adm. Code 200.25. These include assembling “a complete factual record to serve as a basis for a correct and legally sustainable decision.” *Id.* at (a). Here, Amcor wants certain evidence barred outright without having the Commission fully know of the relevant facts and circumstances not in the Stipulation...all being relevant and material to the Motion in Limine.

See Reply in Support of Respondent's Motion For Reconsideration of ALJ Ruling Denying a Hearing on the Motion in Limine at 2 (filed May 31, 2012).

All total, everything in the Third Affidavit is responsive to arguments and allegations put out by Amcor. Everything in the Third Affidavit is relevant to Amcor's Motion in Limine. Everything in the Third Affidavit is supportive of ComEd's arguments and brings important information to the Commission's decision-making in these premises. For the reasons stated here and the further arguments below, Amcor's Motion to Strike the Third Affidavit should be denied.

III. Contrary to Amcor's Assertions, The May 30, 2012 Affidavit of Thomas Rumsey Is Absolutely Relevant to the Motion In Limine.

A. The May 30, 2012 Affidavit of Thomas Rumsey was Necessary to Rebut Amcor's Claims of ComEd's "Alleged" Testing For its "Own" Purposes.

What Amcor ignores in the instant Motion are the arguments it presented in two previous pleadings, i.e., *Amcor's Motion in Limine* (filed on January 26, 2012), and *Amcor's Response to ComEd's Motion to Strike Portions of Amcor's Pleadings and Legal Arguments on its Motion in Limine* (filed on May 22, 2012).

Beginning with its Motion in Limine, Amcor contended that "ComEd kept the Replaced Meter for its *own benefit* so that it could 'allegedly' perform these tests." (Motion in Limine at 3). Amcor also claimed that it should not be forced to rely on ComEd's "alleged" testing results. (*Id.* at 7). Amcor further argued that ComEd preserved the Replaced Meter for its *own* testing. (*Id.* at 12). While not obvious at the outset, over time it became apparent that Amcor has attempted to build something sinister out of the fact that Mr. Rumsey tested the subject meter even as it continuously questioned the act of testing itself. This became abundantly clear in Amcor's Response to ComEd's Motion to Strike (filed May 22, 2012).

- At the outset of its Response, Amcor asked for an order that:

excludes ComEd's evidence of *alleged testing* of the meter in question." (Amcor Response at 1). (Emphasis added).

- Further, Amcor claimed that:

From the inception of this dispute, ComEd has explicitly relied on its *alleged testing* of the meter as the basis for its claim that Amcor had received "unmetered electricity." Exhibit C to the Stipulation. (Amcor Response to ComEd Motion to Strike at 4). (Emphasis added).

- In this same pleading, and in an attempt to show bad faith, Amcor argued that:

Common sense tells us that ComEd's *testing of the meter* is probative of its knowledge that *the meter* was an important piece of evidence. Several cases have also made this point, including *Kambylis*, 388 Ill.App. 3d at 794, 788 N.E.2d at 6; and *Village Pontiac*, 223 Ill. App.3d at 627, 385 N.E. 2d at 1118...there is no rule requiring ComEd to test the meter. (Amcor Response to ComEd Motion to Strike at 14). (Emphasis added).

These allegations, both singularly and as a whole, might well raise questions in a reasonable mind as to whether ComEd actually tested the meter, and, as importantly, why it tested the meter. Being put into issue by Amcor, ComEd was entitled to respond to such matters and did so with the Third Affidavit of Thomas R. Rumsey.

To the extent that Amcor cluttered its pleadings with claims of "alleged testing," ComEd needed to flatly address the matter. There was no "alleged" testing as Amcor has continuously argued. There was "actual" testing. Mr. Rumsey's Third Affidavit, at paragraphs 1-9, explains how the meter came to be "tested" and what the testing actually revealed, i.e., that the meter was "**accurate.**" Third Affidavit at ¶ 7. The Commission cannot make a reasonable determination on the Motion in Limine unless it is informed of all relevant facts and circumstances. The Third Affidavit is particularly relevant here where, at bottom, Amcor claims to have wanted to test the meter, but was denied the opportunity.

Further, Amcor claims that ComEd's "testing" of the meter was both for its "own benefit" and proof of the meter's importance in some possible litigation, raised a question of concern. Mr. Rumsey had the definite answer. His Third Affidavit shows that the testing of the meter and the subsequent diagnostic read were in response to a large increase in the billing of Amcor after the meter in question here had been removed from Amcor's premises and a new meter was installed. (Third Affidavit of Thomas R. Rumsey at ¶ 3). As such, the testing of the meter and the diagnostic read were absolutely not for ComEd's benefit--these tasks were solely for the benefit of Amcor. Having raised a question about increased billing following the change of meters, Amcor certainly expected ComEd to investigate. This task fell to Mr. Rumsey and through a series of steps he uncovered the cause of the discrepancy. *Id.* at ¶¶ 3-9.

B. The May 30, 2012 Affidavit of Thomas Rumsey was Necessary To Address the *Shimanovsky* Factors Raised By Amcor.

In its Response to the ComEd Motion to Strike (filed May 22, 2012), Amcor asserted that it satisfied the factors set out in *Shimanovsky v. General Motors Corporation*, 692 N.E.2d 286 (1998). (Amcor Response at 7). ComEd did not agree and its Reply addressed each of the six factors.

One of *Shimanovsky* factors, in particular, requires the trial court to consider "the nature of the testimony or evidence." 692 N.E.2d 286, 290. For this reason, paragraphs 11-13 of the Third Affidavit were intended to show the Commission that the meter testing is different from a diagnostic register reading. Further, the Third Affidavit of Thomas R.

Rumsey explained what diagnostic readings actually do: “only extract program parameters.” (Third Affidavit at ¶ 27). And, as Mr. Rumsey explained, “[t]his information cannot be manipulated by the user.” (*Id.*). This was important information for the Commission to have, as it is precisely this Long Diagnostic Report record that the Motion in Limine seeks to exclude.

Amcor has no reason to complain of Mr. Rumsey’s Third Affidavit as an expansion beyond the agreed record in this proceeding.¹ In its Response to the ComEd Motion to Reconsider (filed May 22, 2012), Amcor flatly challenged ComEd for not proffering any evidence, in affidavits or in an offer of proof that relates to any of the *Shimanovsky* factors. (Amcor Response at 4).² The Third Affidavit does just that, and to the extent that the Commission considers the *Shimanovsky* factors relevant, this evidence is to be considered.

Amcor itself sets out conflicting arguments on the Third Affidavit and what it shows. On the one hand, Amcor appears to concede that ComEd’s testing record evidence is “true” such that the Commission “does not need an affidavit to establish this.” (Amcor Motion to Strike at 5). On the other hand, Amcor throws out, in a footnote, that ComEd’s claim of the truthfulness of its evidence is self-serving because Amcor has no ability to test the meter (*Id.* at fn. 3). Amcor cannot have it both ways in terms of the Third Affidavit. If the diagnostic record is “true” as Mr. Rumsey himself describes in that it “only extracts program parameters” and “is incapable of being manipulated,” then the added credibility of this Diagnostic Record is indisputably established and there is no basis for Amcor not to accept this evidence subject, of course, to its own expert’s review and/or the cross-examination of Mr. Rumsey.

Amcor further suggests that no case law authority includes such a factor in its analysis. (Amcor Motion to Strike at 5). It is not clear what Amcor means by “such a factor.” To the extent that Amcor is referring to the credibility of the business records that Mr. Rumsey preserved on the meter testing and diagnostic read, that is because no court (nor this Commission) has ever considered the precise claim raised by Amcor’s Motion in Limine. It is only Amcor that has attempted to force civil law litigation matters onto this proceeding and with no regard for the Commission rules or regulations.

¹ A party cannot complain of evidence which he himself introduced or brought out. *Chubb/Home Insurance Companies v. Outboard Marine Corporation*, 238 Ill. App. 3d 558, 606 N. E.2d 423 (1st Dist. 1992). By the same token, Amcor cannot invite an affidavit and then complain of it with a motion to strike.

² The *Shimanovsky* opinion, on which Amcor relies, sets out six factors that a trial court is to consider in determining what sanction, if any, to apply in a given case. These are: (1) the surprise to the adverse party; (2) the prejudicial effect of the proffered testimony or evidence; (3) the nature of the testimony or evidence; (4) the diligence of the adverse party in seeking discovery; (5) the timeliness of the adverse party’s objection to the testimony or evidence; and (6) the good faith of the party offering the testimony or evidence. *Shimanovsky*, 692 N.E. 2d 286, 290. While the *Shimanovsky* factors grew out of a civil case, if the Commission were inclined to use these factors as guidance for its decision-making, they would, of course, need to be adapted to the particulars of the situation at hand and considered in line with the Commission’s rules.

Indeed, Amcor has made clear that it is not bound by the rules for Referee testing in 83 Ill. Adm. Code 410.190(d).

Amcor has not relied on or accepted the current status of case law. As such, it continues to rely on case law that *Adams v. Bath and Body Works*, 830 N.E.2d 645 (1st Dist. 2005) finds inappropriate to the particular type of claim it seeks to pursue, i.e., a discovery sanction instead of a negligence claim. Even though ComEd's Motion to Strike outlined Amcor's misapplication of the relevant case law and pointed out the need to correct or at least offer an analysis, Amcor still persists in relying on *Kambylis* and *Village Pontiac*. See, *Respondent's Motion to Strike Portions of Amcor's Pleadings and Legal Argument on its Motion in Limine* at 6-7; *Reply in Support of Respondent's Motion to Strike Portions of Amcor's Pleadings and Legal Argument on Its Motion in Limine* at 12-13.

In any event, ComEd's test of the meter and the diagnostic analysis bear no comparison to the expert testing in *Kambylis*, or *Village Pontiac*, or any other product liability case where each side may have an interest in the product. Mr. Rumsey's testing of the meter and the diagnostic read were in keeping with his ordinary duties and, as the Third Affidavit shows, he acted in response to concerns raised by the Customer Service Department. (Third Affidavit of Thomas Rumsey at ¶¶ 3). In short, and importantly so, he did not perform these tasks for purposes of litigation. Amcor's claim that, being a ComEd employee, he is not a neutral party (Amcor Motion to Strike at 6, fn.4) overlooks that meter testing/record-keeping is strictly governed by Commission rules and audits. It ignores that the records of the long diagnostic are available for Amcor to tender to its meter expert. And, just as importantly, Amcor forgets that Mr. Rumsey is available for the truth-seeking vehicle of cross-examination.

C. Amcor Has, and Continues to, Misunderstand the Meter Test and Diagnostic Read Records.

Many times over, both in its pleadings and oral argument, Amcor had claimed that the meter in question was defective, or faulty, or not running properly. (Tr. 33, 82, 83). At different stages, both at oral argument (Tr. 67, 92) and in pleadings, ComEd asserted that Amcor had it wrong.³

In the *Reply in Support of Respondent's Motion to Strike Portions of Amcor's Pleadings and Legal Argument on Its Motion in Limine*, at page 5, ComEd explained that:

The reality is that the whole issue of the meter test is itself a red herring. There was nothing significant about this particular meter that would have alerted ComEd to hold on to its physicality. Indeed, the evidence of the actual meter test shows no harm to Amcor. Mr. Rumsey's affidavit of May

³ In the course of the proceeding, ComEd met with Amcor's attorneys and gave a presentation that, according to the Stipulation, is not part of the record but is informational.

30, 2012 shows that meter No. 140384879 was accurate with a weighted average test result of 99.95%. In other words, it was the program for billing, and not the meter measuring load, that was amiss.

Yet, even in the instant Motion to Strike, Amcor continues to incorrectly assert ComEd to have claimed that the meter in question “under-recorded the amount of electricity that Amcor used” and that the back-bill to Amcor is for “alleged unmetered electricity.” (Amcor Motion to Strike at 1). So too, Amcor claims that ComEd “knew the meter needed to be tested *if there were questions about whether it is functioning correctly.*” (*Id.* at 5).

Admittedly, the situation at hand is technically complicated and the testimony of Mr. Rumsey at an evidentiary hearing would have better enlightened both Amcor and the Commission in these premises. The Third Affidavit makes this attempt and when read together with the Stipulation flatly shows that the meter itself was in no way “faulty” or “functioning incorrectly.”

As a general matter, the meter in question does two things:

1. It measures energy use, and
2. it has a program that provides information for billing.

The meter in question *correctly* measured energy usage. Mr. Rumsey’s testing of the meter on September 24, 2009, proved that meter no. 140384879 was **accurate** with a weighted average test result of 99.95%. (See Third Affidavit of Thomas Rumsey ¶ 7.).

But, for purposes of billing on energy use, the program had within it the wrong scaling factor. See Third Affidavit of Thomas Rumsey at ¶ 20-25 (explaining scaling factors) and ¶ 26-29 (showing and expanding on the diagnostic read results that are contained in Exhibit I of the Stipulation and that Amcor here seeks to bar).

The Stipulation of Facts shows that to gather information for billing, a meter reader puts a probe on the optiport to download the number of pulses that have been sent to the Billing Memory during the billing period. The meter reader then transmits this information to a computer that runs ComEd’s billing software.” (Stip. at 8, ¶ 30). In turn, the billing software includes a database with a list of different meter types and their corresponding CPRs. The billing software calculates a customer’s electricity usage from the number of pulses in the Billing Memory, adjusted according to the CPR (counts per revolution) applicable to the customer’s meter type.” (Stip. at 8, ¶ 31)

The wrong scaling factor (6 instead of 2) caused the billing software to assign an incorrect value to the pulses recorded in the meter. See Stip. at 8, ¶ 32-33. At ¶ 25 of the Third Affidavit, Mr. Rumsey explains that a scaling factor of 2 is needed for transformer rated meters, i.e., the Amcor meter, while a scaling factor of 6 is needed for self-contained meters. This, and only this, resulted in the billing of Amcor to be at 1/3 of Amcor’s actual usage.

As the Third Affidavit makes clear, the meter was not “faulty” or was it functioning incorrectly.” Indeed, as Amcor set out in its Reply, the meter is a red herring. See, ComEd Reply In Support of at 5 (referencing and relying on the Third Affidavit of Thomas Rumsey). Contrary to what Amcor asserts in its Motion to Strike, this evidence is highly relevant and necessary for a correct decision on the Motion in Limine.

As all the above shows, the Third Affidavit of Mr. Rumsey should not be stricken.

IV. Amcor Fails to Show That It Is Entitled to Other Relief

A. Amcor’s Challenge of the First Affidavit

Amcor’s Motion also seeks to strike paragraphs 1-5 of Mr. Rumsey’s First Affidavit (This is the Initial Affidavit that was provided in Respondent’s Response to Amcor’s Motion in Limine To Prohibit ComEd From Supporting Certain Claims (filed on February 24, 2012)).

For the Commission’s convenience, ComEd sets out these paragraphs, 1-5, that Amcor seeks to have stricken.

- 1) that he is employed by Commonwealth Edison Company as a Meter Mechanic Special and has tested over 60,000 meters during that time and not only tested the subject meter, Meter No. 140384879 on September 24, 2009, but was the meter custodian to and including October 25, 2010;*
- 2) that on September 24, 2009, he tested the subject meter and found that it was running within ICC limits and had a scaling factor that resulted in one-third of the electricity passing through the meter to be billed;*
- 3) the diagnostic register reading I performed shows the scaling factor and the date and time are recorded “time stamped” on the report I made; thus when a diagnostic register reading was performed on the meter, such diagnostic register reading displays the program parameters in the meter;*
- 4) Based upon how the meter test readings would have been billed as set forth in Paragraph 2, any independent meter test and diagnostic register reading of the subject meter performed after September 24, 2009 would have revealed the same results as my test and diagnostic register reading.*
- 5) I have performed a number of referee tests with ICC and customers present.*

ComEd directs the Commission’s attention to the fact that the only reason Amcor provides in support of having these paragraphs stricken is that “they related to *purported* testing evidence rather than the Motion in Limine.” (Amcor Motion to Strike at

7). Such evidence, however, is relevant and material to ComEd's position/defense on the Motion and well addresses Amcor's renewed assertion here of "purported testing." Thus, Amcor should be denied its requested relief on the First Affidavit.

B. Amcor Challenge of the Second Affidavit

Amcor's Motion also seeks to strike in its entirety, or in the alternative, paragraph's 1-5 of Mr. Rumsey's Second Affidavit (This is the Amended Affidavit filed with ComEd's Motion to Strike. because ComEd was denied the right to present testimony at a hearing to rebut unfair and unwarranted bad faith accusations by Amcor).

The purpose of this Amended Affidavit was to respond in the particulars on which Amcor has challenged the earlier Affidavit of Mr. Rumsey and on which it has fabricated improper arguments and conclusions in both its Reply pleading and on oral argument. Whereas ComEd maintains that the earlier Affidavit fully answered the question as to why the meter in question was discarded, it reasonably intended to leave no doubt in the Commission's mind as to the circumstances surrounding the discard of the meter in question. This Amended Affidavit, as a matter of due process, must be made part of the record.

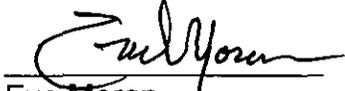
As to the request to strike the entirety of this Second Affidavit and its alternative request to have paragraphs 1-5 of the Amended Affidavit be stricken, it has made no arguments in support thereof. Thus, ComEd asks that the Amended Affidavit of Thomas Rumsey not be struck either in its entirety or in part.

V. Conclusion

For all the reasons set out above, Respondent respectfully asks the Illinois Commerce Commission to deny Amcor's Motion to Strike Third Affidavit of Thomas Rumsey and For Other Relief, in all of its particulars.

Respectfully submitted,

COMMONWEALTH EDISON COMPANY



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**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Amcor Flexibles, Inc.)	
-vs-)	11-0033
Commonwealth Edison Company)	
)	
Complaint pursuant to Section 9-250 and 10-108)	
of the Illinois Public Utilities Act and Section)	
200.170 of the Rules of Practice)	

NOTICE OF FILING

TO: Parties on Certificate of Service

PLEASE TAKE NOTICE that on June 13, 2012, I filed with the Chief Clerk of the Illinois Commerce Commission Respondent's Response to Amcor's Motion to Strike Third Affidavit Of Thomas Rumsey and For Other Relief, a copy of which is attached hereto, and hereby served upon you.



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CERTIFICATE OF SERVICE

I, Eve Moran, hereby certify that on June 13, 2012, I served a copy of the attached Respondent's Response to Amcor's Motion to Strike Third Affidavit Of Thomas Rumsey and For Other Relief in the above-captioned docket, by causing a copy thereof to be placed in the U.S. Mail, first class postage affixed, addressed to each of the parties below:

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