

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

COMMONWEALTH EDISON COMPANY

Application for a Certificate of Public Convenience and Necessity, pursuant to Section 8-406.1 of the Illinois Public Utilities Act, and an Order pursuant to Section 8-503 of the Illinois Public Utilities Act, to Construct, Operate, and Maintain a new 345 kilovolt transmission line in Ogle, DeKalb, Kane and DuPage Counties, Illinois

Docket 13-0657
On Rehearing

**MOTION TO DISQUALIFY LUKE HAGEDORN
AND TO STRIKE SUBSTITUTION OF COUNSEL**

Pursuant to §§ 200.90 and 200.190 of the Rules of Practice of the Illinois Commerce Commission (“Commission”), 83 Ill. Adm. Code 200.90, 200.190, ELLEN ROBERTS VOGEL (“Vogel”) and MICHAEL and SARAH PETERSDORF (the “Petersdorfs”), by and through their attorneys, Shay Phillips, Ltd., move to disqualify Luke Hagedorn and to strike the substitution of counsel. In support of their Motion, Vogel and the Petersdorfs state as follows:

1. On February 9, 2015, Luke Hagedorn and David Streicker filed a Substitution of Counsel and Appearance. That document was signed by only by Luke Hagedorn, not Mr. Streicker or Mr. Burke.

2. Attorneys Hagedorn, Streicker, and Burke failed to comply with Supreme Court Rule 13, which requires that a Motion be filed for Mr. Burke to withdraw from representation of Mr. Cash.

3. Further, Attorney Hagedorn is not licensed to practice in the State of Illinois, according to the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois’ database. www.iardc.org. Section 200.90 of the Rules of Practice requires that Mr. Hagedorn seek “special leave of the Hearing Examiner” to appear for Mr. Cash. 83 Ill. Admin.

Code 200.90. The Hearing Examiner is to consider those goals outlined in § 200.25 of the Rules of Practice in determining whether to grant such leave. It is respectfully submitted that this failure to comply with the Rules of Practice, and the submission of testimony that is out-of-scope and out-of-time,¹ subject to a Motion to Strike, allowing Mr. Hagedorn to participate will not accomplish the goals of maintaining the integrity of the fact finding process, fairness, or expedition. 83 Ill. Admin. Code 200.25.

4. The decision whether to allow out-of-state attorneys to appear and participate in Illinois Commerce Commission proceedings *Pro Hac Vice* is not merely a routine formality. Rather, a motion to so admit is filed by an Illinois-admitted attorney, and inquiry is made, among other things, as to whether the out-of-state attorney's home state allows attorneys from other states to appear and perform legal services there on a similar basis as Illinois.²

5. Accordingly, it is just and proper to disqualify Mr. Hagedorn, at least until he has complied with the Rules of Practice. Further, it is appropriate to Strike the Substitution of Counsel for that reason as well as Mr. Burke's failure to seek leave to withdraw, pursuant to Supreme Court Rule 13.

WHEREFORE, ELLEN ROBERTS VOGEL and MICHAEL and SARAH PETERSDORF respectfully request that Luke Hagedorn be disqualified from appearing on behalf of John F. Cash and Mary Lewis, and that the substitution of counsel be stricken.

Dated: February 10, 2015

¹ While the testimony was filed by Mr. Burke, it was filed after Mr. Hagedorn had served his substitution of counsel and appearance. Why Mr. Burke, who putatively withdrew from representation of Mr. Cash, was filing Mr. Cash's testimony is unknown.

² See, e.g., Rock Island Clean Line LLC, ICC Docket 12-0560, Motion to Appear *Pro Hac Vice* (Nov. 28, 2012); Transcript at 44:1-22, 45:1-22 (Jan. 8, 2013).

Respectfully submitted,

Ellen Roberts Vogel, Michael Petersdorf, and
Sarah Petersdorf, by

A handwritten signature in blue ink that reads "Jonathan LA Phillips". The signature is written in a cursive style and is positioned above a horizontal line.

Jonathan LA Phillips

William M. Shay

Their attorneys

Shay Phillips, Ltd.

456 Fulton St., Suite 255

Peoria, IL 61602

wshay@skplawyers.com

jphillips@skplawyers.com

309.494.6155