



party which requests them. Data requests and responses may be served by facsimile transmittal, electronic mail or other electronic means if agreed to by the parties. Requests for information that are received after 3:00 p.m. shall be deemed to have been received the following business day.

3. Data Request Responses. Responses to Staff data requests are due within 7 days, not counting Saturdays, Sundays or legal holidays. K.A.R. 82-1-234a(b). Responses to all other data requests are due within 10 days, not counting Saturdays, Sundays or legal holidays. In computing the period of time for responding, the day on which the data request is issued is not counted. Parties may agree to extensions or reductions of time in which to respond to or object to a data request. Responses to data requests shall be verified and shall identify the person(s) who actually prepared the response and can answer additional questions relating to the response. Each discovery request shall be answered separately and preceded by the request to which the answer pertains. Responses shall be clearly identified and, if consisting of several pages, shall be labeled and organized in a manner that makes review of the pages convenient. Parties are under a continuing duty to supplement their discovery responses upon learning that the information disclosed is incomplete or incorrect in any material respect. If a response to a data request requires the duplication of voluminous material or of material that is not easily copied because of its binding or size, a party may require that any party other than Commission Staff review the voluminous material on its own premises. If duplication of voluminous material can be accomplished without undue burden, the voluminous material may be copied at the expense of the requesting party. Voluminous material is defined as documents comprised of 500 pages or more.

4. Objections to Data Requests. If a party objects to answering a particular data request, the party shall object in writing within 5 days of receipt of the data request, not counting Saturdays,

Sundays or legal holidays. The written objection shall specifically explain all grounds relied upon for objecting to each data request. Any objections not provided at this time will be considered to be waived. If an objection pertains only to a part of a question, that part shall be clearly identified and the responding party shall provide any non-objectionable information covered by the remainder of the data request. Parties shall negotiate in good faith to resolve discovery disputes. If resolution is not possible, the party seeking discovery may file a motion to compel with the Commission. Motions to compel must have the data request and response at issue attached. Motions to compel are required to be served by hand-delivery, facsimile or next-day delivery service. Responses to motions to compel are to be filed within 3 days after the motion is received, not counting Saturdays, Sundays or legal holidays. The Commission may act immediately on motions to compel if necessitated by time constraints or the procedural schedule in the case.

5. Limitations on Discovery. The Commission may limit discovery to protect a party against unreasonable, cumulative or duplicative discovery requests; to prevent undue delay in the proceeding; to avoid unnecessary burden, expense or harassment; or to otherwise maintain the orderly and efficient progress of the proceeding. Upon finding that a party has abused the discovery process, the Commission may deny the party the right to continue discovery.

6. The Commission has a standard Protective Order that establishes procedures and requirements for the production of information or data designated as confidential. A Protective Order was issued in this docket contemporaneous with the issuance of this Discovery Order.

7. Sanctions. A motion for sanctions for discovery violations may be filed at any time during the proceeding or may be initiated by the Commission. A motion is to contain sufficient factual allegations to detail the violation and must specify the relief requested. Motions for sanctions are

required to be served by hand-delivery, facsimile or next-day delivery service. Responses to motions for sanctions are to be filed within 10 days, not counting Saturdays, Sundays, or legal holidays.

(a) The Commission will consider any relevant factors when reviewing a motion for sanctions, including whether discovery has been conducted in bad faith or for an improper purpose such as causing unnecessary delay or needless increase in the cost of the proceeding; whether the discovery process has been abused in seeking or resisting discovery; and whether parties have failed to obey Commission orders.

(b) Sanctions imposed by the Commission may include limiting or disallowing further discovery; holding that designated facts be deemed admitted for purposes of the proceeding; refusing to allow a party to support or oppose a claim or defense, or prohibiting the party from introducing designated matters in evidence; disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of such requests; striking pleadings or testimony; staying further proceedings until an order is obeyed; disallowing a party's right to participate in the proceeding; dismissing the application or filing with or without prejudice; requiring the offending party to pay the reasonable expenses, including attorney's fees, incurred by other parties because of the sanctionable behavior; and imposing any other sanction or remedy available to the Commission by law.

**IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:**

(A) This Discovery Order shall govern the conduct of discovery in this docket until further order of the Commission.

(B) The parties have fifteen days, plus three days if service of this Order is by mail, from the date of service of this Order in which to request rehearing on any matter decided herein. K.S.A. 66-118b, K.S.A. 2008 Supp. 77-529(a)(1).

(C) The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order or orders as it may deem necessary.

**BY THE COMMISSION IT IS SO ORDERED.**

Wright, Chmn.; Harkins, Comm.

Dated: FEB 01 2010

**ORDERED MAILED**

FEB 02 2010

 EXECUTIVE  
DIRECTOR

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Susan K. Duffy  
Executive Director

DB:acc