

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DTE METHANE RESOURCES, LLC,

Plaintiff,

v.

WILLIAMSON DEVELOPMENT CO.,  
LLC and WILLIAMSON ENERGY, LLC,

Defendants.

Case No. 08-cv-673-JPG

**MEMORANDUM AND ORDER**

This matter comes before the Court on Plaintiff DTE Methane Resources, LLC's Motion to be Excused from Service of Amended Complaint by Formal Summons, or for Clarification whether Formal Service is Required (Doc. 7). Plaintiff asserts that it served Defendants in accordance with Rule 4 of the Federal Rules of Civil Procedure, but that Defendants have not yet entered their appearance in this action. In the meantime, the Court ordered Plaintiff to file an amended complaint correcting deficient allegations of jurisdiction. Plaintiff now asks the Court to excuse it from serving Defendants pursuant to Rule 4 with a copy of the Amended Complaint.

Rule 5(a) of the Federal Rules of Civil Procedure provides that "a pleading filed after the original complaint" must be served on every party in accordance with the requirements of Rule 5(b), not Rule 4. As the amended complaint is "a pleading filed after the original complaint," Plaintiff must serve a copy on each Defendant in accordance with Rule 5(b).<sup>1</sup>

Because Plaintiff is not required to serve Defendants with a copy of the Amended

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<sup>1</sup>The Court notes that Plaintiff seems to be under the impression that it need not serve the Amended Complaint on the Defendants until after they have entered their appearance. This is an incorrect reading of the rules. Plaintiff must immediately serve Defendants with a copy of the Amended Complaint, and file a certificate of such service with the Court in accordance with Rule 5(d)(1).

Complaint by formal summons, the Court **DENIES as moot** Plaintiff's Motion (Doc. 7).

**IT IS SO ORDERED.**

**DATED: October 9, 2008**

s/ J. Phil Gilbert

**J. PHIL GILBERT  
DISTRICT JUDGE**