

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

Punal C. Patel,	)	
Complainant,	)	
	)	
vs.	)	Case No: EC-2015-0347
	)	
Union Electric Company, d/b/a	)	
Ameren Missouri,	)	
Respondent.	)	

**ANSWER  
AND  
MOTION TO DISMISS**

COMES NOW, Union Electric Company, d/b/a Ameren Missouri (“Ameren Missouri” or “Company”), and for its Answer and its Motion to Dismiss states as follows:

**ANSWER**

1. On June 29, 2015, Ms. Punal C. Patel (“Complainant”), with a service address of 8342 Delcrest Dr. Apt. #253, St. Louis, Missouri 63124 (the “service address”), initiated this proceeding against Company.

2. Any allegation not specifically admitted herein by the Company should be considered denied.

3. In answer to paragraph 1 of the Complaint, Ameren Missouri admits that it is a public utility under the jurisdiction of the Missouri Public Service Commission. The location of the Company’s principal offices and its mailing address are: 1901 Chouteau Ave., MC-1310, P.O. Box 66149, St. Louis, Missouri 63166-6149.

4. In answer to the first unnumbered subparagraph of paragraph 2 of the Complaint, the Company admits that Complainant’s husband, Chirag B. Patel, has been a customer of the Company since he established a residential electric utility service account for the service address on April 30, 2014. The Company admits that from the date Mr. Patel’s service was established until May 6, 2015, every residential electric utility bill sent to Mr. Patel was paid on or before the

delinquency date. The Company admits that on May 13, 2015, it issued Mr. Patel a corrected bill in the amount of \$\*\*\*.\*\*.

5. In further answer to the allegations of the first unnumbered subparagraph of paragraph 2, the Company denies the allegation that the corrected bill was issued as a result of Complainant's electric meter being *misread* for the past year. The Company states that this is a "switched meter" situation, arising from an error that occurred when two meters were first set—the meter for Complainant's service address and the meter for a nearby service address. From the time the meter was set, the meter at Complainant's service address accurately measured and transmitted readings of electric usage there but, due to the error, that usage was billed to the customer at a nearby service address. Likewise, the meter at the nearby service address accurately measured and transmitted readings of the electric usage at that nearby address but, due to the error, the usage there was billed to the customer at Complainant's service address (currently Complainant's husband). The error was detected after the current customer at the nearby service address called the Company in April of 2015 and reported that she suspected her meter had been switched with another customer. The Company investigated the other customer's inquiry in May of 2015 and confirmed the switched meter situation. Two days after confirming the error, the Company fixed the error. On May 13, 2015, the Company then sent Complainant's husband the corrected bill, as well as a letter and spreadsheet explaining what had happened, how the corrected bill was calculated, and that the amount would not be automatically deducted from Complainant's husband's bank account but Complainant would need to arrange for payment of the bill. A copy of the corrected bill is attached hereto as **Exhibit A**. A copy of the letter with enclosed spreadsheet is attached hereto as **Exhibit B**. Internally, the Company made a notation on Complainant's husband's account to suspend automatic deductions (EFT) from Complainant's husband's bank account to allow time for the Company to contact the customer (via the letter) about the corrected bill prior to any automatic deduction.

6. In further answer to the allegations of the first unnumbered subparagraph of paragraph 2, the Company admits that Complainant's husband called the Company promptly upon receiving the corrected bill, and when he remained unsatisfied with the information that was provided about the corrected bill, the Company provided him with the Commission's phone number. On May 26, 2015 Complainant's husband called the Company again, expressed his displeasure with the corrected bill, and his concern that the entire corrected bill amount would be

due by the due date shown on the bill. The Company representative specifically advised Complainant's husband that he could enter into a payment agreement with the Company to pay the corrected bill amount in installments over time, but Complainant did not accept the offer. In addition, Complainant also called the Company to discuss the switched meter and corrected bill, and she advised the Company that she planned to contact the Commission. The Company has no knowledge about any conversation Complainant may have had with a representative of the Commission and therefore must deny Complainant's allegations regarding the same.

7. In further answer to the allegations of the first unnumbered subparagraph of paragraph 2, the Company states that on June 1, 2015, a bill was issued to Complainant's husband, which bill included charges of \$\*\*\*.\*\* for electric utility services provided from April 29, 2015 through May 31, 2015, and the corrected bill amount of \$\*\*\*.\*\*, for a total of \$\*\*\*.\*\*. The total bill was automatically deducted from Complainant's bank account, but the deduction was discovered by the Company and reversed (the money was returned to Complainant's husband's bank account). On June 16, 2015, Complainant's husband paid the current charges of \$\*\*\*.\*\* by ACH transfer via the Company's website. By the date Complainant's husband's next monthly bill was issued, on June 30, 2015, Complainant's husband still had not paid the corrected bill amount or entered into any payment arrangement concerning the corrected bill amount. The June 30, 2015 bill included charges of \$\*\*\*.\*\* for electric utility services provided from May 31, 2015 through June 29, 2015, a late fee charge of \$\*\*.\*\*, and the corrected bill amount of \$\*\*\*.\*\*, for a total of \$\*\*\*.\*\*. The Company automatically deducted the amount of the bill from Complainant's husband's bank account on July 7, 2015. On July 13, 2015, Complainant's husband called the Company and expressed his belief that he did not have to pay the corrected bill amount since he had disputed it, and his dissatisfaction with the facts that the amount had been deducted from his account and he had also been charged a late fee. The Company representative agreed to reverse the late fee charge.

8. In answer to the second unnumbered subparagraph of paragraph 2 of the Complaint, the Company admits that a Company error led to the switched meter situation. The Company denies that the Company has billed Complainant *for the error*. In further answer, the Company states that it has billed Complainant's husband for the actual amount of residential electric utility service that the Company provided to Complainant and her husband at their

service address during the preceding twelve monthly billing periods, net of payments received from Complainant's husband during those periods.

9. In further answer to the allegations of the second unnumbered subparagraph of paragraph 2, the Company also denies Complainant's assertion that it is unethical to back charge a compliant and prompt-paying customer. The applicable Commission Rule and Company tariff contemplate that billing errors resulting in undercharges sometimes occur, and subject to limitations on how much of the undercharge can be billed to a customer, each expressly permit the Company to bill a customer to correct the undercharge, as follows:

For all billing errors, the utility will determine from all related and available information the probable period during which the condition causing the errors existed and shall make billing adjustments for that period as follows:...In the event of an undercharge, an adjustment shall be made for the entire period that the undercharge can be shown to have existed not to exceed twelve (12) monthly billing periods or four (4) quarterly billing periods, calculated from the date of discovery, inquiry or actual notification of the utility, whichever was first[.]

4 CSR 240-13.025(1)(B).

For all residential billing errors, the Company will determine from all related and available information the probable period during which the error condition existed and shall make billing adjustments for the estimated period involved as follows:... b. In the event of an undercharge, an adjustment shall be made for the entire period that the undercharge can be shown to have existed not to exceed twelve (12) monthly billing periods calculated from the date of discovery, inquiry or actual notification of the Company, whichever was first[.]

Union Electric Company Electric Service Tariffs, 1<sup>st</sup> Revised Sheet No. 132, General Rules and Regulations, V. Billing Practices, G. Billing Adjustments, 1. Residential.

Further, the Company has a legal duty to charge Complainant and her husband for the service that was actually provided to them at their service address, even if, due to a Company error, it must charge for that service via a corrected bill. Subsections 393.130.2 and .3 RSMo expressly prohibit electric utilities from directly or indirectly charging, demanding, collecting or receiving less compensation for electric service than the utility charges any other person for a like service

under the same or substantially similar circumstances or conditions, and prohibit the utility from granting any undue or unreasonable preference or advantage to any person. Because the Company charges other residential customers for electric utility service, it must also charge Complainant's husband for the electric service actually provided to their service address.

10. In further answer to the allegations of the second unnumbered subparagraph of paragraph 2, the Company denies that it should have provided Complainant with a copy of the Missouri Code of State Regulations or otherwise specifically have advised Complainant that the Company is permitted to send an adjusted bill for an undercharge.

11. The Company admits the allegations of paragraph 3 of the Complaint.

12. The Company denies the allegation set forth in paragraph 4 of the Complaint that the charges Complainant has incurred are the result of a mistake made by a Company employee. In further answer the Company states that the issuance of the corrected bill for those charges is the result of a Company error, but as noted above, the charges themselves are the result of the residential electric utility service the Company provided to Complainant's service address.

#### MOTION TO DISMISS

13. The Complaint should be dismissed because Complainant has failed to allege a violation of any tariff, statute, rule, order or decision within the Commission's jurisdiction, which alleged violations, per 4 CSR 240-2.070(1) and (2) are the bases upon which a formal or informal complaint may be filed with the Commission. Complaints that do not allege such violations do not invoke the Commission's statutory jurisdiction to hear complaints and are properly dismissed. *State ex rel. Ozark Border Elec. Coop. v. Pub. Serv. Comm'n*, 924 S.W.2d 597, 599-600 (Mo. App. W.D. 1996) (Commission's order, dismissing a complaint for lack of jurisdiction where the complaint failed to allege a violation of law, rule or commission order, affirmed by appellate court).

14. Paragraph 4 of the Complaint also sets forth Complainant's request for relief, "that the charges...incurred, due to an error made by an Ameren employee, be dismissed." As noted in paragraph 7 above, the Company has an obligation to charge Complainant for the residential electric utility service provided to her and her husband at their service address (limited only by the 12-monthly billing period lookback limitation on corrected bills for undercharges imposed by 4 CSR 240-13.025(1)(B)). As noted in paragraph 7 above, the corrected bill amount has been paid. Further, the Commission cannot "dismiss" the charges that

Complainant opposes because the Commission is a regulatory body of limited jurisdiction having only such powers as are conferred by statute, and cannot require a refund, order damages or grant equitable relief. *State ex. rel. GS Technologies Operating Co., Inc. v. Public Service Comm'n*, 116 S.W.3d 680, 695 (Mo. App. 2003); *American Petroleum Exchange v. Public Service Comm'n*, 172 S.W.2d 952, 956 (Mo. 1943). When the Commission cannot grant the relief a complainant requests, it is proper for the Commission to grant a motion to dismiss. *City of O'Fallon v. Union Electric Co.*, 2015 Mo. App. Lexis 454, \*11, \*16 (April 28, 2015)(“the Commission's powers are limited to those conferred by statute either expressly or by clear implication as necessary to carry out the powers specifically granted” and where the complainant could provide, “no statutory authority for the Commission to grant the requested relief[,]” the complaint was properly dismissed).

15. The following attorneys should be served with all pleadings in this case:

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WHEREFORE, Ameren Missouri respectfully requests that the Commission issue an order dismissing the Complaint, or in the alternative denying Complainant’s request for relief or, in the alternative, setting the matter for hearing.

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Answer and Motion to Dismiss was served on all the following parties via electronic mail, and additionally on Complainant via regular mail, this 30<sup>th</sup> day of July, 2015.

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/s/ Sarah E. Giboney

**EXHIBITS A AND B ARE  
HIGHLY CONFIDENTIAL  
IN THEIR ENTIRETY**