

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Dr. Michael and Sharon Maples,)	
)	
Complainants,)	
)	
v.)	<u>Case No. GC-2007-0350</u>
)	
Union Electric Company d/b/a)	
AmerenUE,)	
)	
Respondent.)	

ORDER SETTING PREHEARING CONFERENCE AND DIRECTING
FILING OF A PROPOSED PROCEDURAL SCHEDULE

Issue Date: June 11, 2007

Effective Date: June 11, 2007

Dr. Michael and Sharon Maples filed a formal complaint against Union Electric Company d/b/a AmerenUE ("AmerenUE") on March 23, 2007,¹ alleging that they had been overcharged by over \$5,000 due to a faulty natural gas meter at their home. On March 27, the Commission notified AmerenUE of the complaint and allowed it thirty days in which to answer as provided by 4 CSR 240-2.070(7). The same day, pursuant to 4 CSR 240-2.070(10), the Commission ordered its Staff to commence an investigation of the Maples' formal complaint and to file a report concerning the results of its investigation no later than three weeks after AmerenUE filed its answer to the complaint.

¹ All dates specified in this order refer to the calendar year 2007.

AmerenUE filed its answer on April 26, in which it denied that the meter at the Maples' home was faulty and stated that they actually owed the company a net balance of \$1,970.73, further alleging that when the meter in question was removed and tested by AmerenUE, it was found to be functioning properly. After requesting and receiving an extension of time in which to do so, the Maples' filed their response to AmerenUE's answer on May 14, which, among other things, questioned the test procedure and results obtained, alleging that "the practice of internally testing equipment whose accuracy is suspect" could produce a conflict of interest.

On May 17, Staff filed its report and recommendation, in which it found that the Maples' complaint was unfounded and recommended that it be dismissed. However, Staff also observed that during the discovery process, AmerenUE had produced no evidence showing that it had notified either complainant "of the time and place of the test so that s/he may be present to witness the test should s/he so desire," as required by Commission Rule 4 CSR 240-10.030(20). Accordingly, Staff requested authorization to file a complaint against AmerenUE to seek penalties for its failure to provide the complainants an opportunity to witness the testing of their gas meter.

On May 21, Dr. Maples submitted additional information pertaining to the complaint and filed a letter requesting an evidentiary hearing. The following day, Staff filed a motion for leave to file a chart which was referred to in its report but was inadvertently omitted therefrom. In the same pleading, Staff advised that after reviewing the additional information filed by Dr. Maples on May 21, Staff's position remained that the complaint should be dismissed and the Commission should authorize Staff to pursue penalties

against AmerenUE for violating Commission Rule 4 CSR 240-10.030(20).² By order dated May 23, the Commission granted Dr. Maples' request for an evidentiary hearing, as well as Staff's motion to file the missing attachment.

This matter is now at issue and a prehearing conference is appropriate to ensure its prompt resolution. In part, a prehearing conference is designed to permit the parties to pursue settlement discussions and to identify all remaining procedural or substantive matters of concern prior to the formal disposition of the issues in the case.³ In addition, a prehearing conference offers the parties a valuable opportunity to attempt to resolve their differences by agreeing to voluntary mediation of their dispute. Staff will be ordered to file a proposed procedural schedule within twenty days after the prehearing conference.

The Commission reminds the parties that this prehearing conference is *not an evidentiary hearing*. Sworn testimony will not be taken and no final decision will result from this prehearing conference.⁴ However, all parties are required to be present for the prehearing conference, and a court reporter will be present to make a record of the parties that appear. **Parties must arrive in person or appear by telephone at or before the scheduled starting time of 9:00 a.m. in order to participate.** Pursuant to Commission Rule 4 CSR 240-2.090(5), "Failure to appear at a prehearing conference without previously having secured a continuance shall constitute grounds for dismissal of the party or the party's complaint, application or other action unless good cause for the failure to appear is shown."

² Under Commission Rules 4 CSR 240-2.080(15) and 4 CSR 240-2.050(1), AmerenUE had until May 29 to file a timely response to Staff's May 17 recommendation regarding penalties. No response has been filed.

³ See Commission Rule 4 CSR 240-2.090(6).

⁴ Also, under Commission Rule 4 CSR 240-2.090(7), any facts the parties may discuss during the conference, including any settlement offers or discussions, are privileged and cannot be used against any participating party unless the parties agree to disclose them or they are fully supported by other, independent evidence.

The Commission further advises the parties that arriving late to a prehearing conference is the equivalent of failing to appear. Parties are expected to appear at scheduled hearings on time, or to advise the Commission of their need to appear late or to timely request a continuance. If a party fails to meet those obligations, that party may be dismissed and the Commission may rule in favor of an opposing party. This is why the Commission issues advance notice of all hearings and conferences and extends various opportunities prior to any scheduled event for the parties to appear by phone or request a continuance.

IT IS ORDERED THAT:

1. The parties shall appear at a prehearing conference to be held on June 27, 2007, beginning at 9:00 a.m. The prehearing conference will be held in Room 305 at the Commission's offices in the Governor Office Building, 200 Madison Street, Jefferson City, Missouri, a building that meets the accessibility standards required by the Americans with Disabilities Act. Any person needing additional accommodations to participate in this prehearing conference should call the Public Service Commission's Hotline at 1-800-392-4211 or dial Relay Missouri at 711 prior to the conference.

2. Any party wishing to appear by telephone shall notify the Regulatory Law Judge by calling 573-751-7485 no later than June 20, 2007.

3. Any party wishing to request a continuance shall file a pleading with the Commission stating why they are unable to attend the scheduled prehearing conference on June 27, 2007, either in person or by phone, and shall provide the Commission with a list of dates when that party is available to appear. Any such pleading shall be filed no later than

June 22, 2007, and shall also be served on every other party to this complaint by the party requesting the continuance.

4. Staff shall prepare and file a proposed procedural schedule no later than July 17, 2007.

5. This order shall become effective on June 11, 2007.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Benjamin H. Lane, Regulatory
Law Judge, by delegation of authority
under Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 11th day of June, 2007.