

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

SEM WAHEED,)	
)	
Complainant,)	
)	
v.)	Case No. GC-2009-0236
)	
AMERENUE,)	
)	
Respondent.)	

Order Permitting Late Filing, Denying Motion to Dismiss, Changing Case Style, and Treating Request for Documents as Discovery

Issue Date: February 25, 2009

Effective Date: February 25, 2009

The Missouri Public Service Commission grants the motion of AmerenUE to file a response out of time. The Commission denies AmerenUE's motion to dismiss, and grants AmerenUE's motion to change the case style and Staff's Motion to Change Name of Complainant. The Commission deems Sam Waheed's request for certain documents to be a document production request served on AmerenUE as of the date of this order.

A. Background

Sem Waheed filed the complaint, alleging inaccuracies in a gas bill from AmerenUE and other matters, and naming the complainant as Summerfield Inn d/b/a America's Value Inn. "America's Value Inn" is a fictitious name registered to Summerfield Inn, L.L.C., which is a limited liability company ("LLC"), according to the Commission's staff ("Staff") report. That report raised a jurisdictional issue.

The issue arises because the Commission's jurisdiction to conduct this action begins with a complaint.¹ A complaint must include certain matters.² Such matters constitute the practice of law if filed on behalf of another person,³ which includes an LLC.⁴

Whether an LLC or Mr. Waheed was the customer determines the jurisdiction of the Commission. Therefore, the Commission issued orders requiring filings from the customer and AmerenUE. Mr. Waheed filed his response on February 11, 2009. The Commission received AmerenUE's response on February 23, 2009. Also, Staff filed a motion to change complainant's name on February 24, 2009.

B. Late Filing

AmerenUE asks the Commission to accept its response after the time for filing its response expired. In support of that request, AmerenUE states that it assumed that the order to clarify the customer's legal status was directed to the complainant. Such might well have ordinarily been the case. But because it was also possible that complainant was pro se and thus less sophisticated than AmerenUE, and AmerenUE has the adversarial interest in showing a lack of jurisdiction, the Commission directed the order to AmerenUE. AmerenUE's allegations describe excusable neglect, as required for an extension of time.⁵ Further, the Commission discerns no prejudice in late filing and merit in the response's content. Therefore, the Commission will grant the request and order AmerenUE's response filed on the day the Commission received it.

¹ Section 386.390.1. Sections are in the 2000 Revised Statutes of Missouri.

² *Id.*

³ ***Reed v. Labor & Indus. Relat. Comm'n***, 789 S.W.2d 19, 22-23 (Mo. banc 1990).

⁴ *Id.*; § 347.069.1.

⁵ 4 CSR 240-050(3).

C. Customer, Complaint and Jurisdiction

By filing his response, Mr. Waheed asserts that he is the customer. AmerenUE and Staff agree. Mr. Waheed may present his own complaint to the Commission and the Commission has jurisdiction to hear it.

D. Case Style

The Commission also ordered AmerenUE to file any appropriate motions with its response. AmerenUE's response includes a motion to dismiss the complaint, because it incorrectly names the complainant as Summerfield Inn, L.L.C., so that Mr. Waheed may re-file it under a corrected style. In the alternative, AmerenUE moves to change the style of this action. That course of action finds support in Staff's Motion to Change Name of Complainant, which also alleges that Mr. Waheed agrees. Therefore, the Commission is correcting the style of this action to reflect Sem Waheed as the complainant.

E. Documents

In his response, Mr. Waheed asks the Commission to order AmerenUE to produce the documents on which it based the meter constant used during the period at issue. Such a request is similar to a request document for production of documents and things, a form of discovery available to parties before the Commission.⁶ Rather than denying Mr. Waheed's request, requiring him to re-file it in the form of a document production request, and serve such discovery on AmerenUE, the Commission will accomplish the same end by a more efficient means. The Commission will deem the request to be a document production request served on AmerenUE as of the date of

⁶ Section 536.073.2; 4 CSR 240-2.090(1); and Rule 58.01. Rules are Missouri Supreme Court Rules.

this order. When AmerenUE has complied with such discovery, it shall file a certificate of service with the Commission.⁷

THE COMMISSION ORDERS THAT:

1. AmerenUE's Motion to Accept out of Time is granted, and AmerenUE's Response to Commission Order to Address Customer's Legal Status is filed on February 23, 2007.

2. The style of this action is amended, to reflect Sem Waheed as the complainant, as shown in the caption of this order.

3. Sem Waheed's request for AmerenUE produce documents is deemed to be a request for production of documents and things, under the Missouri Supreme Court's rules of discovery, served on AmerenUE as of the date of this order.

4. When AmerenUE has complied with the deemed discovery described in numbered paragraph 4 of this order, AmerenUE shall file a certificate of service with the Commission.

5. This order is effective when issued.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Dated at Jefferson City, Missouri,
on this 25th day of February 2009.

Jordan, Regulatory Law Judge

⁷ Rule 58.01(c)(6).