

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

Claude Scott,)	
Complainant,)	
)	
vs.)	Case No: EC-2018-0371
)	
Union Electric Company, d/b/a)	
Ameren Missouri,)	
Respondent.)	

**MOTION TO DISMISS OR IN THE ALTERNATIVE
TO AMEND THE PROCEDURAL SCHEDULE ORDER**

COMES NOW, Union Electric Company, d/b/a Ameren Missouri (“Ameren Missouri” or “Company”), and in support of its Motion to Dismiss or in the Alternative to Amend the Procedural Schedule Order states as follows.

1. On November 19, 2018, the Commission entered its *Order Establishing Procedural Schedule and Other Procedural Requirements* (the “Order”) in this small formal complaint case, in which at ordering paragraph 1 the Commission established November 21, 2018 as the date by which Complainant must file his direct testimony.
2. At ordering paragraph 1 of the *Order*, the Commission also established December 5, 2018 as the date by which Ameren Missouri must file its rebuttal testimony.
3. Prior to November 21, 2018, Complainant did not ask the Commission for an extension of time, pursuant to the Commission’s authority at 4 CSR 240-2.050(3)(A), to enlarge the period ending November 21, 2018 that was originally prescribed for him to file direct testimony. Nor has Complainant since that date filed a request for leave by the Commission, pursuant to 4 CSR 240-2.050(3)(B), to file his direct testimony out of time, for good cause shown or because his failure to timely file was the result of excusable neglect.
4. As a result of Complainant’s failure, the Company has been unable to begin to prepare its rebuttal testimony, despite its December 5, 2018 deadline to do so.
5. 4 CSR 240-2.116(3) provides that, “[a] party may be dismissed from a case for failure to comply with any order issued by the Commission[.]” 4 CSR 240-2.116(4) provides that, “[a] case may be dismissed for good cause found by the Commission after a minimum of

ten (10) days' notice to all parties involved." Good cause exists to dismiss this Complaint because Complainant has failed to comply with a Commission order, has not timely asked for an extension of time to comply, and has not shown good cause for his failure or that it was the result of excusable neglect.

6. Should Complainant demonstrate to the Commission that his failure to meet his November 21, 2018 deadline was the result of excusable neglect or good cause, such that the Commission finds that the Complaint should not be dismissed and orders an extension of time within which Complainant may file direct testimony, then good cause will exist to grant the Company an extension of time to prepare and file its rebuttal testimony.

7. In the alternative, in view of the upcoming evidentiary hearing in this Complaint scheduled for January 18, 2019 and the fact that this is a small formal complaint case, and pursuant to the authority granted at 4 CSR 240-2.070(15)(F)2, the Commission could amend its *Order* to dispense with pre-filed written testimony altogether.

WHEREFORE, for the forgoing reasons, the Company respectfully requests that the Commission: a. dismiss this Complaint for Complainant's failure to comply with the *Order*, or in the alternative, b. amend the *Order* to extend Complainant's deadline to file direct testimony and extend Ameren Missouri's deadline to file rebuttal testimony to a date at least 14 days after Complainant has filed his direct testimony, or in the alternative, c. amend the *Order* to dispense entirely with the filing of pre-filed written testimony by any party.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to Dismiss or in the Alternative to Amend the Procedural Schedule Order was served on the following parties via electronic mail (e-mail) or U.S. Mail on this 29th day of November, 2018.

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