

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

MISSOURI COALITION FOR
FAIR COMPETITION

and

COREY MALONE

Complainants,

v.

File No.

UNION ELECTRIC COMPANY
d/b/a Ameren Missouri

Respondent.

FILED

AUG 3 2022

Missouri Public
Service Commission

COMPLAINT

COME NOW the Missouri Coalition for Fair Competition and Corey Malone, by and through their undersigned counsel, and for their complaint, state:

1. Petitioner Missouri Coalition for Fair Competition (MCFFC), whose mailing address is PO Box 2051, Jefferson City, MO 65102, is a political action committee that represents the concerns of its members, who are individuals and businesses in the heating and cooling (HVAC) industry.
2. The MCFFC was instrumental in the passage of the "Fair Competition Law" in 1998, and its 2003 amendments, codified at §§ 386.754-.764 RSMo. The Fair Competition Law states that a utility may not engage in HVAC services, using subsidized dollars to compete with small businesses.

3. Corey Malone, whose mailing address is 11920 Missouri Bottom Road, Hazelwood, MO 63042, is a natural person, a citizen and resident of the State of Missouri, a participant in the HVAC industry, and president of the MCFFC.

4. Respondent Union Electric Company, d/b/a Ameren Missouri (Ameren), whose mailing address is One Ameren Plaza, 1901 Choteau Ave., St. Louis, MO 63103, is a Missouri Corporation in good standing,

5. Respondent does business under various fictitious names and through subsidiaries, whose identities are not all presently known to the Petitioners. Petitioners intend to include all such fictitious names and subsidiaries in this Complaint.

6. Respondent is a public utility under the jurisdiction of the Missouri Public Service Commission.

7. Petitioners allege, upon information and belief, that Respondent has been and is engaging in the HVAC services contrary to the provisions of the "Fair Competition Law," codified at §§ 386.754-.764 RSMo.

8. Petitioners further allege, upon information and belief, that Respondent has and is continuing to use its vehicles, service tools, instruments, employees, advertising, or any other utility assets, the cost of which are recoverable in the regulated rates for utility service, to engage in HVAC services, without being compensated for the use of such assets at cost to the utility.

9. Petitioners further allege, upon information and belief, that Respondent has and is continuing to allow any affiliate or utility contractor to use the name of such utility to engage in HVAC services unless the utility, affiliate or utility contractor discloses, in

plain view and in bold type on the same page as the name is used on all advertisements or in plain audible language during all solicitations of such services, a disclaimer that states the services provided are not regulated by the public service commission.

10. Petitioners further allege, upon information and belief, that Respondent has and is continuing to engage in or assist any affiliate or utility contractor in engaging in HVAC services in a manner which subsidizes the activities of such utility, affiliate or utility contractor to the extent of changing the rates or charges for the utility's regulated services above or below the rates or charges that would be in effect if the utility were not engaged in or assisting any affiliate or utility contractor in engaging in such activities.

11. Petitioners further allege, upon information and belief, that Respondent has and is continuing by these same actions, to violate the provisions of 20 CSR 4240-20.017.

12. For relief, the Petitioners seek the Commission's determination, decision and order:

- a. that Respondent has violated the provisions of the "Fair Competition Law," codified at §§ 386.754-.764 RSMo. and associated regulations;
- b. that Respondent cease and desist its violations of the provisions of "Fair Competition Law," codified at §§ 386.754-.764 RSMo. and associated regulations;
- c. that Respondent be assessed the penalty provided in § 386.756.9 RSMo., in the amount of \$12,500 for each violation of the "Fair Competition Law," codified at §§ 386.754-.764 RSMo. and associated regulations;

d. such other and further relief as is just and necessary in the premises.

13. For some three years prior to commencing this action Petitioner Malone, on behalf of himself and other members of the Petitioner association, has attempted to resolve this matter by applying to participate in the program. At first he was told that it was an experimental program and contractor participation was closed. He was promised notification when the program became open. More recently Respondent's third-party administrator hangs up on him.

WHEREFORE, Petitioners submit their Complaint against Respondent to the Public Service Commission for such inquiry, investigation, discovery, hearings and further proceedings as are allowed or required by law, and seek the relief provided by law and set forth above, together with such other and further relief as is just and necessary in the premises.

Respectfully submitted,



David F. Barrett
Attorney at Law
PO Box 104151
Jefferson City, MO 65110
(573) 340-9119
Fax: (573) 636-1003
dfbarrett@outlook.com

ATTORNEY FOR PETITIONERS