



the validity of a final decision of an administrative body. State ex rel. Bond v. Simmons, 299 S.W. 2d 540 (Mo. App. 1957).

3. 4 CSR 240-2.130(1) applies the rules of evidence contained in Section 536.070 to contested case proceedings before the Missouri Public Service Commission.

4. Respondent objects to the following portions of complainant's Surrebuttal Testimony on the grounds that the testimony is in the form of an affidavit, constitutes inadmissible hearsay evidence and should be stricken if and when offered into evidence in this case:

- a. "I later learned that UE had no tariff provision authorizing it to impose a \$4,310.80 'reconnection fee' as a condition of restoring service." Surrebuttal Testimony of Mark Finney, p. 5, lines 4-5.
- b. "Mr. Charles Dodd, the building's maintenance superintendent, was always available to escort the meter reader and did so to February 2002 for the Conlon Group. He continues to escort meter readers for the current owner while employed by the City of St. Louis. Conlon Group personnel made themselves available to assist if there were problems getting access to the meters. If there were consistent problems obtaining such access, UE did not communicate orally or in writing those problems to the Conlon Group.

\* \* \*

No. In fact, Cellnet worked closely with Charles and Donna Dodd so that consistent access was provided to the meters even after Cellnet took over." Surrebuttal Testimony of Mark Finney, p. 8, lines 10-11.

WHEREFORE, respondent objects to the hearsay testimony set forth in paragraph 4 herein and respectfully moves that such testimony be stricken from the Surrebuttal Testimony of complainant when and if such testimony is offered into evidence in this proceeding.

HERZOG, CREBS & MCGHEE, LLP

By: Michael A. Vitale /sh  
Michael A. Vitale - #30008  
515 North Sixth Street, 24<sup>th</sup> Floor  
St. Louis, Missouri 63101  
Phone: 314-231-6700  
Fax: 314-231-4656

Attorneys for Respondent AmerenUE

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Objections to and Motion to Strike Hearsay Contained in Affidavit Surrebuttal Testimony Filed by Complainant was sent via facsimile and mailed, first class postage pre-paid this 22nd day of April 2002 to Paul H. Gardner, Goller, Gardner & Feather, P.C., 131 E. High Street, Jefferson City, MO 65101, Attorneys for Claimant, Lera Shemwell, Associate General Counsel, Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102 and Office of Public Counsel, P.O. Box 7800, Jefferson City, Missouri 65102.

Michael A. Vitale /sh