

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

Claude Scott,)	
Complainant,)	
)	
vs.)	Case No: EC-2020-0005
)	
Union Electric Company, d/b/a)	
Ameren Missouri,)	
Respondent.)	

AMEREN MISSOURI’S MOTION FOR SUMMARY DETERMINATION

COMES NOW Union Electric Company, d/b/a Ameren Missouri (“Ameren Missouri” or “Company”), and pursuant to 20 CSR 4240-2.117(1), files this Motion for Summary Determination. Pursuant to 20 CSR 4240-2.117(1)(B), the Company has attached to this Motion as Exhibit B a separate legal memorandum in support.

Procedural Background

On July 15, 2019 Claude Scott (“Complainant” or “Mr. Scott”) initiated this proceeding against the Company (the “*Complaint*”), pertaining to the Company’s charges for residential electric (1M) service (“service”) to him. Complainant alleged that the Company: failed to stop budget billing for him upon his request, then overbilled him ***\$[REDACTED].[REDACTED]*** through budget billing, failed to prove that he owed that amount, refused to provide meter readings to him, scheduled his service for interruption on July 19, and had previously blocked his request for utility assistance which caused a previous service interruption. *Complaint, ¶¶6, 7 and 8.*

On July 15, 2019, the Commission issued its *Notice of Small Formal Complaint and Order Directing Staff to Investigate and file a Report*. In it, the Commission ordered the Company to file a response to the Complaint no later than August 14, 2019, and ordered Staff to investigate and file its report no later than September 13, 2019.

On July 19, 2019, the Company filed a *Motion for Extensions of Time and Motion to Dismiss*.

On July 22, 2019, the Commission issued its *Notice and Order Setting Summary Disposition Procedural Schedule and Suspending Staff Recommendation*, excusing Staff from filing a report, absent a future order, ordering the Company to answer the Complaint no later

than August 14, 2019, ordering the Company to file a rule-compliant motion for summary disposition no later than September 13, 2019, and ordering Complainant to file a rule-compliant response to the Company's motion no later than thirty days after the Company files its motion.

On July 24, 2019, the Company filed its *Answer and Affirmative Defenses* ("Answer").

Material Facts As To Which There Are No Genuine Disputes

1. Ameren Missouri is a public utility under the jurisdiction of the Commission. (*Answer*, ¶9).
2. The Company previously provided service to Mr. Scott at *** [REDACTED] *** (the "Prior Address") beginning in July of 2017 and ending on March 12, 2018. (EC-2018-0371 (the "Prior Proceeding"), *Report & Order* EFIS Item 58, Findings of Fact ¶¶ 2 and 32).
3. Mr. Scott currently resides at *** [REDACTED] *** (the "Current Address"). (*Answer*, ¶6).
4. The Company has provided electric service ("service") to Mr. Scott at the Current Address since March 9, 2018. (Prior Proceeding, Transcript, Vol. III, Evidentiary Hearing (January 18, 2019) EFIS Item 27 ("Tr.") p. 152, l. 5-16; *Complaint*, ¶¶ 1, 2 and 6).
5. The allegations made by Mr. Scott in ¶¶ 5, 6 and 7 of this *Complaint* arise out of the same facts and circumstances, and with the exception of the allegation in ¶ 6 of the *Complaint* that Mr. Scott's service was scheduled for interruption on July 19, are identical to the allegations made by Mr. Scott in the Prior Proceeding. (Prior Proceeding, *Complaint* (June 11, 2018) EFIS Item 1, ¶¶ 6, 7 and 8; Prior Proceeding, *Complainant's Response to Commission's Order to Show Cause Why Complaint Should Not Be Dismissed* (September 28, 2018) EFIS Item 13, p.2; and Prior Proceeding, *Supplemental Complaint and Motion for Discovery* (January 7, 2019) EFIS Item 25).

Identical Allegations Regarding Budget Billing

6. In the Prior Proceeding, Mr. Scott alleged that he cancelled budget billing and was overcharged because the Company continued to budget bill him thirty days after he cancelled budget billing, "[b]udget billing was not to bill anything past 3/02/2018." (Prior Proceeding, *Complaint*, ¶¶ 5, 6 and 7, and *see* bills attached thereto, for service to the Prior Address and Current Address with Mr. Scott's handwritten comments).

7. At the Prior Proceeding evidentiary hearing, Mr. Scott testified, “I requested budget billing to be discontinued somewhere in the neighborhood of – I believe it was February or March of 2018...[o]ver the phone.” (*Tr.* p. 109, l. 16-25).

8. At the Prior Proceeding evidentiary hearing, Mr. Scott testified about and offered into evidence the Company’s March 15, 2018 bill to him for service to his Prior Address, in the amount of ***\$[REDACTED].[REDACTED]***. (*Tr.* p. 65, l. 20-p. 66, l. 25; Ex. 3, EFIS Item 30).

9. In this *Complaint* at ¶ 6, Mr. Scott also alleges that the Company overbilled him ***\$[REDACTED].[REDACTED]*** through budget billing because, “the customer requested to stop [budget billing] prior to the buildup of this amount.”

10. Although Mr. Scott complains about budget billing, he has not been on budget billing since November of 2018, and the only bill he has ever received from the Company in the amount of ***\$[REDACTED].[REDACTED]*** was the March 15, 2018 bill for his Prior Address that was at issue in the Prior Complaint, and admitted into evidence therein as Ex. 3, EFIS Item 30. (Exhibit A, Affidavit of Aubrey M. Krcmar (“*Krcmar Aff.*”) ¶ 5, Attachment AMK-1, *see* “Budget Bill Settlement” entry dated 11-19-2018; also *see* AMK-1 Total Bill column, reflecting that Mr. Scott has not received a bill for service to his Current Address in the amount of ***\$[REDACTED].[REDACTED]***).

Identical Allegations Regarding Meter Readings and Proof of Amounts Owed

11. Shortly before the Prior Proceeding evidentiary hearing, Mr. Scott filed a pleading alleging the Company had failed to, “provide evidence to support its billings” and demanding that the Company produce, “any and all meter readings” for the Current Address. (Prior Proceeding, *Supplemental Complaint and Motion for Discovery*, EFIS Item 25, ¶¶ 7 and 8, and attachment thereto).

12. At the Prior Proceeding evidentiary hearing, Mr. Scott testified, “[a]nd I wanted to add, Your Honor, in addition to this, that they have not sent me a copy of meter readings as far as what the actual meter is telling them. So I don’t know what – if these amounts are estimated or what their actual usage is here...[a]nd, as requested again, to Ameren to send me a meter reading of the usage of this apartment. They failed to do that.” (Prior Proceeding, *Tr.* p. 73, l. 18-25).

13. In this *Complaint* at ¶ 6, Complainant again alleges that, “respondent refuses to provide any meter readings to prove its alleged amount of ***\$[REDACTED].[REDACTED]***” and at ¶ 7 requests, “meter readings from the respondent.”

Identical Allegations Regarding Blocked Request for Energy Assistance

14. In the course of the Prior Proceeding, Mr. Scott filed a pleading alleging, under the caption, “Cause #4: Payment Blocking Assistance by Giving False Information” that “Ameren Missouri intentionally conveyed false information to a utilities service payment assistance agency” which “prevented the payment agency from paying the required amount to prevent a service interruption. 2 (Two) days after this offer was refused the service was turned off...” (Prior Proceeding, *Complainant’s Response to Commission’s Order to Show Cause Why Complaint Should Not Be Dismissed*, EFIS Item 13 p.2).

15. In this *Complaint* at ¶ 8, Complainant again alleges that he, “requested utility assistance, which was blocked by the respondent without cause, and caused previous service interruption.”

Evidentiary Hearing and Report and Order in Prior Proceeding Addressed Identical Allegations, and Denied Complaint and Request for Discovery

16. In the Prior Proceeding, the Commission held an evidentiary hearing on Friday January 18, 2019, during which it admitted testimony of a Company witness, a Staff witness, and Mr. Scott, and received 26 exhibits into evidence. (Prior Proceeding, *Report and Order*, p. 4).

17. The Commission issued its *Report and Order* in the Prior Proceeding on May 15, 2019. (Prior Proceeding, *Report and Order*, pp. 1, 29).

18. The Commission examined all the amounts billed to Mr. Scott for his Prior Address and his Current Address, from July 23, 2017 through December 11, 2018, including the March 15, 2018 bill for ***\$[REDACTED].[REDACTED]*** that included budget bill amounts. (*Report and Order*, Findings of Fact, ¶¶ 2-67, *see in particular*, ¶ 33).

19. As to whether the Company wrongfully charged Mr. Scott ***\$[REDACTED].[REDACTED]*** and improperly budget billed him, the Commission decided in the Prior Proceeding that Ameren Missouri correctly calculated *all* Mr. Scott’s utility bills, and that it budget billed him according to the Company’s budget billing tariff. (*Report and Order*, Findings of Fact, ¶¶ 68 and 69).

20. As to whether the Company failed to discontinue budget billing when Mr. Scott so requested, the Commission found in the Prior Proceeding that Mr. Scott did not call to request that budget billing be discontinued until April 18, 2018, and upon that request, Ameren Missouri then discontinued budget billing. (*Report and Order*, Findings of Fact, ¶ 37).

21. As to whether the Company has failed to prove that Mr. Scott owed the ***\$[REDACTED].[REDACTED]*** the Company budget billed him for service to his Prior Address, in the Prior Proceeding the Commission analyzed Mr. Scott's bills sequentially and concluded that the bills proved, "that Ameren Missouri correctly billed Mr. Scott, applied budget billing and payment agreements according to tariff and rule, and timely and correctly credited Mr. Scott's payments." (*Report and Order*, Discussion, pp. 26-27).

22. As to whether the Company has failed to provide meter readings, in the Prior Proceeding the Commission found that copies of bills and activity statements the Company provided to Mr. Scott did contain meter readings. In consequence, the Commission found that the bills provided were all the discovery to which Mr. Scott was entitled within the scope of the *Complaint*, and his related requests were overbroad and untimely. The Commission denied both his motion and request to compel. (*Report and Order*, Discussion, pp. 27-28).

23. Every bill issued to Mr. Scott after the December 11, 2018 bill examined by the Commission at the January 18, 2019 evidentiary hearing has also included meter readings, including the beginning and ending meter readings of the billing period and the dates of the readings, as per Commission Rule now found at 20 CSR 4240-13.020(9)(A). (*Krcmar Aff.* ¶ 6, Attachment AMK-2).

24. As to whether the Company allegedly blocked a request for energy assistance by providing false information to an agency that Mr. Scott's account was not in jeopardy of disconnection, causing his service to be turned off, in the Prior Proceeding, the Commission found: that while Ameren Missouri did receive an online inquiry from an energy assistance agency on July 31, 2018, Mr. Scott's account was not in threat of disconnection at that time; a disconnection notice was subsequently issued on August 7, 2018 advising that his service may be disconnected for nonpayment on or after August 17, 2018; Mr. Scott failed to make any payment by that date and as a result his service was disconnected for nonpayment on August 22, 2018; and an energy assistance inquiry and two energy assistance agency pledges were made in response to that disconnection. (*Report and Order*, Findings of Fact, ¶¶ 48-55, Discussion, p. 27).

25. In its Discussion, the Commission found it, "important to note that Mr. Scott started with a[n] arrearage balance that was transferred into his [Prior Address] account. Mr. Scott never paid that balance in full. The energy assistance grants did not pay Mr. Scott's full

arrearage, but only the amount necessary to restart his service and the reconnection fee. Mr. Scott was carrying an arrearage of some kind on every bill submitted, whether through a payment plan, budget billing, or a prior unpaid amount. Mr. Scott defaulted on multiple payment agreements, and failed to pay his bills for several months. The [amount] that Mr. Scott says he paid over the last year would barely cover the...balance he owed when he started service at the [Prior Address]. Mr. Scott seems confused as to why his balance has not gone down and yet there is not a single bill in which Mr. Scott is not carrying some form of unpaid arrearage...[.]” (Prior Proceeding, *Report and Order*, Discussion, p. 26).

26. After considering all Mr. Scott’s allegations, and applying the facts it found to its conclusions of law, the Commission decided, “Complainant has the burden to show that Ameren Missouri has violated a law, rule, or order of the Commission that is within the Commission’s statutory authority to determine. Mr. Scott has failed to meet his burden of proof and the Commission must rule in favor of the Company.” (*Report and Order*, Decision, p.28).

27. Accordingly, the Commission ordered that Mr. Scott’s complaint was denied and his request to compel discovery was denied. (*Report and Order*, ordering ¶¶ 1 and 2.)

28. The Commission also specifically ordered that Ameren Missouri, “may proceed, consistent with the law and the Commission’s rules, with the Claude Scott account as it sees appropriate.” (*Report and Order*, ordering ¶¶ 1-3).

29. The effective date of the *Report and Order* was June 14, 2019. (*Report and Order*, ordering ¶ 4.)

30. No party filed a request for rehearing of the Commission’s decisions in in the Prior Proceeding prior to the June 14, 2019 effective date of the *Report and Order*. (See, EC-2018-0371, docket sheet).

31. Just as in the months leading up to the evidentiary hearing in the Prior Proceeding, during every single billing period between the evidentiary hearing and the filing of the current *Complaint*, Mr. Scott carried a prior balance on his account for his Current Address. (*Krcmar Aff.*, ¶ 7, Attachments AMK-1 and AMK-2).

32. As of July 9, 2019, Mr. Scott had a past due account balance of ***\$[REDACTED].***. (*Krcmar Aff.*, ¶ 8, Attachment AMK-1 and AMK-2).

33. Pursuant to the authority granted to the Company by the Commission in the *Report and Order* at ordering paragraph 3, to proceed, consistent with the Commission’s laws

and rules, with the Claude Scott account as the Company thought appropriate, and consistent with the Commission's Rules now found at 20 CSR 4240-13.050(1)(A), (4) and (5), on July 9, 2019, the Company issued a written disconnection notice to Mr. Scott, advising that unless his then ***\$[REDACTED].[REDACTED]*** past due account balance was paid on or before July 19, 2019, his service would be disconnected for nonpayment. (*Krcmar Aff.* ¶ 11, Attachments AMK-3 and AMK-4; *see also, Complaint*, ¶ 6, "The service is scheduled for interruption on 7/19").

34. On July 15, 2019, Mr. Scott filed this *Complaint* in an attempt to avoid the pending July 19, 2019 disconnection of service to his Current Address. (*Complaint*, ¶ 8).

35. On July 12, 2019, however, the Company had received an inquiry from an energy assistance agency about the status of Mr. Scott's account, as well as the agency's pledge of ***\$[REDACTED].[REDACTED]*** toward Mr. Scott's account for service to his Current Address, which pledge, Mr. Scott was advised when he inquired of the Company on that same date, was an amount sufficient to take his account out of threat of disconnection though not sufficient to pay his entire delinquent account balance. (*Krcmar Aff.* ¶ 12; Attachments AMK-3 and AMK-4).

WHEREFORE, the Company requests that the Commission grant summary determination in the Company's favor and enter its order (1) finding that the Company did not violate any statute, rule, Commission order, or Commission-approved tariff when the Company issued a disconnection notice to Mr. Scott, (2) denying his request for relief from disconnection, (3) finding that the remainder of the *Complaint* is barred as a collateral attack on the Commission's final *Report and Order* in File No. EC-2018-0371, and (4) dismissing the remainder of the *Complaint* for failure to state a claim for which relief can be granted.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion, Exhibit A, the Affidavit of Aubrey M. Krcmar and the attachments thereto, and Exhibit B, the Suggestions in Support of the Motion, were all served on the following parties via e-mail this 13th day of September, 2019.

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