

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

Stella Lucy,)	
Complainant,)	
)	
vs.)	Case No: EC-2018-0376
)	
Union Electric Company, d/b/a)	
Ameren Missouri,)	
Respondent.)	

AMEREN MISSOURI’S REPLY BRIEF

COMES NOW Union Electric Company d/b/a Ameren Missouri (the “Company”) and respectfully submits its reply brief.

Staff’s Brief (as well as Staff’s Reply Brief) has placed undue emphasis on certain allegations in this proceeding in a manner that may distract the Commission away from giving the competent, substantial, expert, and uncontroverted evidence presented by the Company at the evidentiary hearing the weight it deserves. That evidence proves that the Company could not, and did not, deliver excess voltage to Complainant’s Premises on October 4, 2017.

Staff recommends that the Commission find Complainant’s testimony (to the effect that the Company supplied an overvoltage) to be credible, and suggests that the evidence presented at the evidentiary hearing by the Company was not credible because the Company could have, but did not, present eyewitness testimony contradicting Complainant’s testimony. This recommendation is without sufficient merit. Even had a Company eyewitness testified and directly contradicted Complainant’s testimony, at most, a he said—she said situation would arise that would not resolve the issue of whether an overvoltage was actually delivered.

As Staff counsel is aware (because he elicited testimony on the issue from the Company’s witness), the crew leader present for the events that gave rise to this complaint has since retired.¹ As is standard practice, the Company chose to present evidence through the testimony of Edwin Guehne, who has worked for Ameren Missouri since 2002, and as the supervisor of electrical

¹ Tr., p. 126, l. 5-18.

operations in the Meramec Valley Division, Franklin District, for the last four years.² Mr Guehne, given his extensive experience in distribution line maintenance and upgrades, is an appropriate corporate representative and expert witness. Mr. Guehne testified that the service voltage delivered through the transformer on Complainant's tap to Complainant's Premises on October 4, 2017 could not have been, and was *not*, 270 volts as Complainant testified.

Regardless of the qualifications, expertise, and knowledge of the Company's witness, Staff suggests that because the Company did not provide eyewitness testimony regarding the line voltage on the day of the incident, the Commission should find in Complainant's favor. This line of logic is faulty. The mere facts that Complainant was an eyewitness, that the Commission could find Complainant's testimony credible, and the Company did not present conflicting *eyewitness* testimony does not mean that Complainant's evidence is incontrovertible. If Complainant wants the Commission to find that the Company delivered an overvoltage to her Premises, then she still must prove that fact *by a preponderance of the evidence*. The evidence before the Commission includes not just Complainant's statements, but also Company documents and records and Mr. Guehne's experience and expertise regarding the service voltage.

Yes, Complainant testified that a worker tested the voltage at her meter and she heard the worker report, "[w]e got 270."³ However, a significant amount of controverting evidence presented tends to prove, or proved directly, that the voltage was *not* 270, including evidence supplied by Complainant. Complainant admitted that she heard the worker correct himself and say "Yeah, it was 240."⁴

As for the Company's witness, Mr. Guehne established that he is an expert with regard to electric distribution systems, and their operation, upgrade, maintenance and repairs by virtue of his knowledge, skill, training, 12 years' experience as a lineman and four years' experience as a supervisor of electrical operations. Mr. Guehne has firsthand knowledge of the Company's electrical distribution system serving Complainant. He personally supervised the construction of the three-phase project down Hendricks Road in front of Complainant's Premises, from beginning to end. He personally supervised the crew working at the end of Complainant's tap on October 4, 2017, and actually spoke with the crew at the end of that particular day's work. He

² Tr., pp. 76-78.

³ Tr., p. 22, l. 1-3.

⁴ Tr., p. 22, l. 7.

knew the operating voltage of the Company's single-phase service along Hendricks Road. He understands how residential transformers work, including how, by virtue of the number of windings they contain, they step down the 7,200 volts transmitted on the single-phase lines to usable voltages for residential customers. He explained that because of the limited number of windings in residential transformers, they are physically incapable of randomly causing overvoltages of 270 volts. He testified that in order to deliver 270 volts out of Complainant's transformer, the voltage on the single-phase line along Hendricks Road would had to have been significantly greater than the normal 7,200 volts, and that if this occurred, all customers along Hendricks Road would have experienced a surge or overvoltage, not just Complainant. He testified that nothing about the single-phase service along Hendricks Road on October 4, 2017, and nothing about Complainant's service, was any different than it had been prior to that date. He has experience with what causes transformers to fail and how they perform after they fail. He testified that if significantly more than 7,200 volts had been delivered to a residential transformer, that overvoltage would permanently damage the transformer such that it would continue to malfunction afterward. Yet, as he testified, and introduced ordinary Company business records to prove, *no other customer* along Hendricks Road on October 4, 2017, had reported experiencing any problem with their service. He also testified, and introduced ordinary Company business records that proved, that Complainant's transformer has never been replaced, yet several days after the incident in which an overvoltage of 270 volts was allegedly delivered through it (which would have permanently damaged it), the transformer was tested and found to be delivering perfectly normal voltage to Complainant's Premises. The foregoing competent, substantial, expert, and completely uncontroverted evidence, which proved that the Company could not and did not deliver 270 volts to Complainant's Premises on October 4, 2017, is what Staff would have the Commission completely disregard on the basis of Complainant's credibility, her testimony about what she thought she heard, and the fact that no eyewitness to the events of October 4, 2017 testified on behalf of the Company.

Staff's briefs suggesting that the facts adduced at the evidentiary hearing support a finding of statutory, regulatory and tariff violations by the Company also directly contradict its own Staff report, which was entered into evidence. This Staff Report represents its witness Mr. Cunigan's findings after his investigation this Complaint, and Mr. Cunigan was presumably assigned to this investigation because of his own expertise in electrical matters. Mr. Cunigan's

report specifically states that Staff “could not say whether an improper voltage was applied” and “found no definitive evidence that the [Company] violated a tariff, statute or regulation during the course of these events.” (Ex. 21C, *Staff Report*).

The matters of how and whether an overvoltage of the amount claimed by Complainant could have been delivered to her Premises on October 4, 2017 are technical, expert matters. Substantial credible evidence has been presented by the Company's witness, who is in fact expert in such matters, that proves that the claimed voltage levels could not and did not occur. Credible evidence has been presented by Staff's own, presumably expert, witness that there was no definitive evidence that an improper voltage was applied or that the Company violated a tariff, statute or regulation. While Complainant may be credible regarding her factual recollection of what she heard about an overvoltage, her testimony did not establish that she has any particular expertise in electrical matters such that she could offer (and in fact she did not offer) an expert opinion as to how the claimed overvoltage could have or did occur, especially in view of the evidence to the contrary. Given the overwhelming evidence before the Commission that the overvoltage did not occur, Complainant's testimony alone, is insufficient to satisfy the burden of proof in this matter. Because Complainant failed to satisfy her burden of proof, the Commission should enter an order denying the *Complaint* on the merits.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Ameren Missouri's Reply Brief was served on the following parties via electronic mail (e-mail) or U.S. Mail on this 21st day of December, 2018.

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