

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

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|------------------------|---|-----------------------|
| Charles A. Harter, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | File No. EC-2023-0281 |
| |) | |
| Union Electric Company |) | |
| d/b/a Ameren Missouri, |) | |
| |) | |
| Respondent |) | |

ANSWER AND AFFIRMATIVE DEFENSES

Comes now, Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or “Company”) and for its Answer and Affirmative Defenses to the complaint filed by Complainant (“Complainant”) states:

1. Ameren Missouri admits the allegation contained in paragraph one of the Complaint.
2. Ameren Missouri admits the allegation contained in paragraph two of the Complaint.
3. Ameren Missouri admits its mailing address is P.O. Box 790098, St. Louis, Missouri 63179-0098.
4. Ameren Missouri admits the allegations contained in paragraph four of the Complaint.
5. Ameren Missouri admits the allegations contained in paragraph five of the Complaint.
6. With regard to paragraph six of the Complaint, Ameren Missouri does not know what relief Complainant is seeking. It particularly does not know what the phrase “expunge the

deficiency for utility” means. But, Ameren Missouri at all times followed the Commission’s rules regarding contacting customers by telephone and by mail.

7. Ameren Missouri denies the allegations contained in paragraphs seven of the Complaint.

8. Ameren Missouri denies the allegations contained in paragraph eight of the Complaint.

Affirmative Defenses

1. Complainant has failed to set forth a cause of action upon which relief can be granted.

2. Ameren Missouri follows the requirements set forth in 20 CSR 4240-13.050(5) by properly notifying customers by first class mail at least ten (10) days prior to a proposed disconnection. There is no requirement that the notification be postmarked. The United States Postal Service has said postmarks are not required for mailings bearing a permit, meter, or precanceled stamp for postage, nor to pieces with an indicia applied by various postage evidencing systems. *Exhibit 1*. Service of notice by mail is complete upon mailing. *20 CSR 4240-13.050(5)*. There is a rebuttable presumption that once the notice of disconnection is mailed it also was received.

3. Ameren Missouri’s disconnection notices are sent out by our mailing vendor, Fiserv (<https://www.fiserv.com/>). A daily electronic file is sent via a secure connection to Fiserv, and the disconnection notices specified in the file are mailed on the date specified. The daily file is sent the business day before the mail date. The documentation of the date mailed is captured in a system generated account contact which is confirmation of the mailing date. Fiserv also keeps a daily mail log.

4. Ameren Missouri admits there was excessive background noise when Complainant first contacted the Company that Complainant found disconcerting, and the advisor was not able to address Complainant's issue. These shortcomings are being handled internally through coaching of advisors. Ameren Missouri apologizes for the inconvenience that was experienced by Complainant and will strive to ensure this does not happen again.

5. Complainant has implicitly conceded that Ameren Missouri has followed not only the spirit but the letter of Commission Rule 20 CSR 13.050(5) that only requires that the notices of discontinuance be mailed by first class mail. Notices of disconnection do not have to be postmarked. Complainant filed his Petition to Amend Rule, which has been assigned File No. AX-2023-0287, seeking to have the Commission Rule amended to include a requirement that the notices be postmarked. This rule change is not necessary given the safeguards Ameren Missouri's outside vendor has in place as outlined in Affirmative Defense Three. Plus, even if one were to assume the rule amended proposed by Complainant was adopted by the Commission, this Complaint would still have to be decided as the Rule is in effect today. To retroactively change the legal consequences of actions committed before the enactment of the rule change would violate Article 1, Section 9, Clause 3 of the United States Constitution which says "no....Ex Post Facto law shall be passed."

Respectfully submitted,

Banks Law LLC

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**Counsel for Union Electric Company d/b/a
Ameren Missouri**

CERTIFICATE OF SERVICE

I hereby certify that on March 31, 2023, I caused the aforementioned document to be electronically filed with the Secretary of the Public Service Commission of the State of Missouri who will send a copy to counsel for all parties of record.

/s/ Eric Kendall Banks _____