

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

Jimmie E. Small,)	
Complainant,)	
)	
vs.)	Case No: EC-2015-0058
)	
Union Electric Company, d/b/a)	
Ameren Missouri,)	
Respondent.)	

**Ameren Missouri’s Suggestions in Opposition to
Complainant’s Motion for Summary Determination**

COMES NOW Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or “Company”), and for its Suggestions in Opposition to Complainant’s Motion for Summary Determination states as follows:

The Commission should not grant Mr. Small’s Motion for Summary Determination (the “Motion”). The Commission cannot grant a motion for summary disposition unless (1) there is no genuine issue as to any material fact; (2) the moving party is entitled to relief as a matter of law; and (3) the Commission determines that it is in the public interest. 4 CSR 240-2.117(1)(E). Material facts are those that are “determinative of a claim or defense.” *See*, the Commission’s Order in this case issued and effective October 15, 2014, p. 4.

In his Complaint, Complainant alleged that the Company refused to reconnect his electric utility service, and that such refusal was wrongful. 4 CSR 240-13.035 is the Commission regulation that addresses when a utility may, or may not, refuse to provide service (the “Denial of Service Rule”). Although Complainant’s Motion includes only a handful of allegations of fact¹, he himself admits that there is a dispute as to one of those facts that is material to whether the Company violated the Denial of Service Rule.

¹ As noted in the Company’s Response to Complainant’s Motion for Summary Determination, the majority of the statements contained in the Motion are either legal argument, or statements of fact that are wholly immaterial to the issue of whether the Company’s refusal to reconnect was wrongful.

Complainant understands that the Company's reason for denying him service is that the Company believes he has a past due account balance. *See* Motion, ¶21 (alleging that a Company representative stated "that reconnection would not occur until the \$846 past account issues were resolved."). Complainant urges the Commission to rely on a variety of equitable principles² to estop the Company from alleging there is a delinquent account balance. However, Complainant himself alleges that, "what started out as a dispute over alleged money due [Company]...continu[es] on September 03, 2014," that there is a "full blown dispute³ over money Ameren claim[s] Small owned," and "no debt has been proved to exist[.]" Motion, ¶¶19, 31 and 32. Clearly, the Company and Complainant do not agree about whether he has a delinquent account balance.

If Complainant failed to pay a delinquent utility charge for services provided by the Company, then pursuant to 4 CSR 240-13.035(1)(A) the Company would be entitled to refuse to reconnect Complainant's electric utility service for that reason. Because there is a genuine dispute over whether there is such a delinquent utility charge, the Commission cannot determine as a matter of law whether the Company was or was not entitled to refuse to reconnect on these grounds. Complainant also has not alleged any facts material to a determination of whether the Company might have violated any *other* section of the Denial of Service Rule.

Therefore, the Commission should not grant Mr. Small's motion for summary disposition.

WHEREFORE, Union Electric Company d/b/a Ameren Missouri requests that the Commission deny Complainant's Motion for Summary Disposition.

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² The Company does not concede that any of the stated principles are applicable.

³ Complainant appears to mean "dispute" in the everyday sense of the word, since in his Motion he does not allege any facts showing that he has participated with the Company in the dispute process described at 4 CSR 240-13.045.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Ameren Missouri's Suggestions in Opposition to Complainant's Motion for Summary Determination was served on the following parties via electronic mail (e-mail) or via certified and regular mail on this 22th day of December, 2014.

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