

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

Missouri Office of the Public Counsel,)	
)	
Complainant,)	
)	
v.)	Case No.
)	
Union Electric Company d/b/a Ameren)	
Missouri,)	
)	
Respondent.)	

COMPLAINT

COMES NOW the Office of the Public Counsel (“OPC” or “Public Counsel”) and for its Complaint, states as follows:

Introduction

1. Section 393.152 RSMo and Public Service Commission rule 20 CSR 4240-13.030 require public utilities to refund customer-paid deposits after a customer satisfactorily pays their utility bill for 12 months. OPC brings this complaint because Union Electric Company d/b/a Ameren Missouri (“Ameren”) does not recognize, for purposes of counting the 12-month period, bills paid during months where customers pay a deposit in installments. This practice unlawfully and unreasonably delays the refund of deposits.

Complainant

2. Complainant OPC is statutorily empowered to represent the interests of the public before the Commission. § 386.710 RSMo. OPC’s address is 200 Madison Street, Suite 650, Jefferson City, Missouri 65102.

Respondent

3. The Respondent Union Electric Company d/b/a Ameren Missouri is a Missouri corporation with its principal office and place of business at 1901 Chouteau Avenue, St. Louis, Missouri, 63103. Ameren's registered agent is CT Corporation System, 120 South Central Avenue, Clayton, Missouri, 63105.

Jurisdiction over the Parties

4. Section 386.250 RSMo provides, "[t]he jurisdiction, supervision, powers and duties of the public service commission herein created and established shall extend under this chapter:"

(1) To the manufacture, sale or distribution of gas, natural and artificial, and electricity for light, heat and power, within the state, and to persons or corporations owning, leasing, operating or controlling the same; and to gas and electric plants, and to persons or corporations owning, leasing, operating or controlling the same.

...

(6) To the adoption of rules as are supported by evidence as to reasonableness and which prescribe the conditions of rendering public utility service, disconnecting or refusing to reconnect public utility service and billing for public utility service...

5. Respondent Ameren is an electric corporation and a gas corporation subject to the jurisdiction and regulation of this Commission pursuant to §§ 386.020 (15) and (18), and 386.250 RSMo.

6. Prior to this filing, the OPC directly contacted representatives of Ameren and the parties attempted to resolve the issues raised in this complaint.

Jurisdiction over the Action

7. Section 386.390.1 RSMo authorizes the Commission to hear and determine complaints. It states in relevant part:

Complaint may be made by the commission of its own motion, or by the public counsel ... by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility in violation, or claimed to be in violation, of any provision of law subject to the commission's authority, of any rule promulgated by the commission, of any utility tariff, or of any order or decision of the commission...

8. Section 386.390 RSMo also empowers the Public Counsel to bring complaints against public utilities before the Commission.

9. Section 386.570.1 RSMo imposes a \$100 to \$2,000 penalty, per offense, for any public utility that violates Missouri statutes or Commission rules and orders. Each day that a continuing violation persists is a separate offense. § 386.570.2 RSMo. The acts and omissions of the officers, agents and employees of a corporate respondent are the acts and omissions of the corporation. § 386.570.3 RSMo. All penalties are cumulative. § 386.590 RSMo.

Count 1

Violations of 20 CSR 4240-13.030(4)(D)

10. Public Counsel hereby realleges and incorporates by reference all of the allegations set out in Paragraphs 1 through 9 above.

11. Commission rule 20 CSR 4240-13.030, Deposits and Guarantees of Payment, “*establishes reasonable and uniform standards regarding deposits and guarantees required by utilities.*” Subsections (1) and (2) of Rule 13.030 provide the circumstances under which a public utility may lawfully assess a deposit. Subsection 13.030(4)(I) requires the utility to “permit an applicant or customer required to make a deposit to pay the deposit in installments.”

12. Commission rule 20 CSR 4240-13.030(4) imposes several requirements utilities must follow when assessing deposits. The requirements in Subsection 13.030(4)(D) provide:

(D) Upon satisfactory payment of all undisputed utility charges during the last twelve (12) billing months, it shall be promptly refunded or credited, with accrued interest, against charges stated on subsequent bills. Payment of a charge is satisfactory if received prior to the date upon which the charge becomes delinquent provided it is not in dispute. Payment of a disputed bill shall be satisfactory if made within ten (10) days of resolution or withdrawal of the dispute. A utility may withhold refund of a deposit pending the resolution of a dispute with respect to charges secured by the deposit.

13. Rule 13.030(4)(D) mandates that the utility will “promptly” refund the deposit to a customer that satisfactorily pays all undisputed utility charges “during the last twelve (12) billing months.” Ameren’s practice, however, ignores the first six months of satisfactory payments for customers that pay their deposit in installments. Ameren does not begin counting the 12-month period until the customer pays the deposit in full. This practice is unlawful and unreasonable. It is unlawful because Rule 13.030 provides no requirement that a customer pay a deposit in full before the 12-month clock begins – it only requires 12 months of satisfactory payments. Ameren’s practice is unreasonable because there is no justification for delaying the start of the 12-month period. The purpose of the 12-month period is to assess the customer’s ability to pay their utility bill. A customer that pays their utility service charges *and* their deposit installments during the first 6-months of service has clearly demonstrated an ability to pay *above* their utility service charges.

14. The only requirement a customer must follow to ensure the prompt refund of their deposit after 12 months is to make “satisfactory payments” for 12 months. The rule provides at 13.030(4)(D), “Payment of a charge is satisfactory if received prior to the due date upon which the charge becomes delinquent provided it is not in dispute.” Customer payments made during the 6-month period where the customer is paying for service charges and the deposit installments meet the definition of “satisfactory payments” so long as the customer paid all charges by the due date. Ameren’s practices, however, simply ignore these satisfactory payments, allowing Ameren to retain customer funds longer than the period permitted by Commission rule.

15. Ameren’s practices, as explained in paragraphs 10-14, are unjust, unreasonable, and violate Commission rule 20 CSR 4240-13.030(4)(D).

WHEREFORE, OPC prays that the Commission will provide notice to the Respondent as required by law and, after due hearing, (1) find that Respondent has violated the Commission’s rule 20 CSR 4240-13.030(4)(D) as set out herein; (2) direct its General Counsel to seek in Circuit Court the penalties allowed by law; and (3) grant such other and further relief as is just in the circumstances.

Count 2

Violations of § 393.152 RSMo

16. Public Counsel hereby realleges and incorporates by reference all of the allegations set out in Paragraphs 1 through 15 above.

17. Revised Missouri Statute § 393.152 provides in relevant part:

393.152. Delinquency in payment, deposit or guarantee to continue service prohibited, when — inapplicability. — 1. A public utility regulated under this chapter shall not require a deposit or guarantee as a condition of continued residential service to any existing customer who has been delinquent in paying his or her utility bill at least five times in twelve consecutive months if:

(1) Such customer has consistently made a payment for each month during the twelve consecutive months, provided that each payment is made by the delinquent date

18. Section 393.152 RSMo prohibits a utility from requiring a deposit as a condition of continued residential service if the customer has paid their bill on time for twelve consecutive months. Ameren's practice, however, is to require a deposit even after the customer has timely paid each month for twelve consecutive months. By not refunding the deposit after 12 months, and holding the deposit an additional 6 months, Ameren is requiring a deposit as a condition of continued service in violation of Section 393.152 RSMo.

19. Ameren's practices, as explained in paragraphs 16-18, are unjust, unreasonable, and violate Section 393.152 RSMo.

WHEREFORE, OPC prays that the Commission will provide notice to the Respondent as required by law and, after due hearing, (1) find that Respondent has violated Section 393.152 RSMo as set out herein; (2) direct its General Counsel to seek in Circuit Court the penalties allowed by law; and (3) grant such other and further relief as is just in the circumstances.

Count 3

Violations of 20 CSR 4240-13.030(2)

20. Public Counsel hereby realleges and incorporates by reference all of the allegations set out in Paragraphs 1 through 19 above.

21. Commission rule 20 CSR 4240-13.030(2) provides the limited circumstances in which a public utility may require a deposit as a condition of continuing residential service. Those limited instances include: (A) discontinuance for non-payment; (B) the customer has interfered with or diverted service; and (C) the customer has failed to pay an undisputed bill by the due date for five billing periods out of twelve billing periods.

22. Ameren's practice is to require a deposit even after the customer has timely paid each month for twelve consecutive months. By not refunding the deposit after 12 months, and holding the deposit an additional 6 months in instances where none of the limited circumstances in (A), (B), or (C) apply, Ameren is requiring a deposit as a condition of continued service in violation of 20 CSR 4240-13.030(2).

23. Ameren's practices, as explained in paragraphs 20-22, are unjust, unreasonable, and violate 20 CSR 4240-13.030(2).

WHEREFORE, OPC prays that the Commission will provide notice to the Respondent as required by law and, after due hearing, (1) find that Respondent has violated 20 CSR 4240-13.030(2) as set out herein; (2) direct its General Counsel to seek in Circuit Court the penalties allowed by law; and (3) grant such other and further relief as is just in the circumstances.

Count 4

Violations of 20 CSR 4240-13.030(4)(B)

24. Public Counsel hereby realleges and incorporates by reference all of the allegations set out in Paragraphs 1 through 23 above.

25. Commission rule 20 CSR 4240-13.030(4)(B) requires, “[t]he utility shall make all reasonable efforts to return a deposit to its customer when the customer is entitled to the return of their deposit...” By not refunding customer deposits after the customer has satisfactorily paid their bill for twelve consecutive months, Ameren is in violation of 20 CSR 4240-13.030(4)(B) because the Company does not make all reasonable efforts to return deposits to customers when the customer is entitled to the return of their deposit.

26. Ameren’s practices, as explained in paragraphs 24-25, are unjust, unreasonable, and violate 20 CSR 4240-13.030(4)(B).

WHEREFORE, OPC prays that the Commission will provide notice to the Respondent as required by law and, after due hearing, (1) find that Respondent has violated 20 CSR 4240-13.030(4)(B) as set out herein; (2) direct its General Counsel to seek in Circuit Court the penalties allowed by law; and (3) grant such other and further relief as is just in the circumstances.

Respectfully submitted,

/s/ Marc Poston

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 9th day of February 2023.

/s/ Marc Poston
