

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

Douglas Bobo,	)	
	)	
Complainant,	)	
	)	
v.	)	<u>Case No. EC-96-38</u>
	)	
Union Electric Company,	)	
	)	
Respondent.	)	
	)	

---

---

**REPORT AND ORDER**

---

---

**Issue Date:** March 20, 1996

**Effective Date:** April 2, 1996

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

Douglas Bobo,	)	
	)	
Complainant,	)	
	)	
v.	)	<u>Case No. EC-96-38</u>
	)	
Union Electric Company,	)	
	)	
Respondent.	)	
	)	

**APPEARANCES**

Donald V. Nangle, Attorney at Law, 7711 Carondelet Avenue, Suite 505, Clayton, Missouri 63105, for Douglas Bobo.

Michael F. Barnes, Attorney, Union Electric Company, 1901 Chouteau Avenue, Post Office Box 149, St. Louis, Missouri 63166, for Union Electric Company.

Lewis R. Mills, Jr., Deputy Public Counsel, Office of the Public Counsel, Post Office Box 7800, Jefferson City, Missouri 65102, for the Office of the Public Counsel and the public.

Roger W. Steiner, Assistant General Counsel, Missouri Public Service Commission, Post Office Box 360, Jefferson City, Missouri 65102, for the staff of the Missouri Public Service Commission.

**ADMINISTRATIVE**

**LAW JUDGE:** Cecil I. Wright, Chief.

**REPORT AND ORDER**

On August 4, 1995, Douglas Bobo (Complainant) filed a complaint against Union Electric Company (UE) alleging that UE had unlawfully refused to transfer electric service at 2023 Rule Avenue in Maryland Heights, Missouri, to his name and restore service at those premises, and that UE has unlawfully transferred a bill for electric service from previous tenants to Complainant's account. The Commission gave notice of the complaint to UE on August 8, 1995, and ordered its Staff to investigate the matter. In its order, the Commission also indicated

that UE had restored service at 2023 Rule Avenue based upon a request by the Commission.

On September 5, 1995, Commission Staff filed its report and, also, UE filed its answer and motion to dismiss. On September 13, 1995, Complainant filed a response to UE's answer and motion to dismiss, and on September 15, 1995, UE filed a response to Staff's investigation.

The Commission, by order issued September 22, 1995, established a prehearing conference and delayed ruling on UE's motion to dismiss pending payment by Complainant of \$900.00, the undisputed amount of his bill. The prehearing conference was held at which Complainant was given one day to pay the \$900.00 to UE or this complaint would be dismissed. The Commission received notice that the \$900.00 was paid and so this matter was set for hearing.

The evidentiary hearing was held as scheduled on February 8, 1996. A briefing schedule was established but subsequently the parties indicated they would not be filing briefs.

### **Findings of Fact**

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact.

Douglas Bobo (Complainant) owns a house at 2023 Rule Avenue in Maryland Heights, Missouri. Electric service to the house is supplied by Union Electric Company (UE), a regulated public utility. This complaint originated when Complainant requested in late November or early December 1994 that UE switch the billing for electric service at 2023 Rule to his name as the customer of record. UE refused him service unless he produced verification of his residence during the previous year or unless he paid the outstanding amounts owed by the previous tenants, Fannie Jackson and Cheryl Outlaw. Complainant did not provide

sufficient proof of residence as requested by UE, so UE informed Complainant that to be reinstated without sufficient proof of residence for the prior year, Complainant would have to pay the outstanding bill at 2023 Rule owed by previous tenants which included a bill of \$1,851.45 owed by Cheryl Outlaw from another location, 5111 Vernon Avenue, and \$978.59 owed by Fannie Jackson from 2023 Rule.

The history concerning the service at 2023 Rule during the period in question is as follows:

- August 26, 1991, to May 6, 1994: customer of record Fannie Jackson. Jackson had an outstanding balance of \$978.59 when she ceased being the customer of record at 2023 Rule.
- May 6, 1994, to December 5, 1994: Cheryl Outlaw tenant at 2023 Rule.
- December 5, 1994 (approximately): Complainant requested service at 2023 Rule be placed in his name as customer of record. UE required Complainant to provide proof of ownership of property, identification with a picture, and proof of residence for previous year or paid past-due bills of former tenants.
- March 15, 1995: Complainant attempted to get service in his name or his mother's name. UE refused pending proof of residence for previous year or payment of past-due bills.
- March 16, 1995: UE disconnected service at 2023 Rule.
- April 6, 1995: Complainant again attempted to have service reconnected. He was told he was responsible for past due bills at 2023 Rule and 5111 Vernon in Cheryl Outlaw's name.
- April 14, 1995: UE found service reconnected at 2023 Rule.
- May 15, 1995: UE again disconnected service at 2023 Rule.
- June 21, 1995: UE inspector found service again reconnected at 2023 Rule. Meter was inserted upside down and held in place by a cord. UE disconnected service. UE installed sidemount locks.
- August 7, 1995: UE reconnected service upon request from Commission Staff and filing of this complaint.

After the filing of the complaint, UE decided to no longer hold Complainant responsible for the unpaid bills of Cheryl Outlaw at 5111 Vernon. With these charges removed, the amount in dispute is as follows:

\$ 89.23 -- Balance due from amounts owed when Cheryl Outlaw was  
 customer of record  
  
 \$ 387.02 -- Balance due for service from December 5, 1994, to  
 May 15, 1995  
  
 \$ 978.59 -- Balance due for electric service when Fannie Jackson was  
 customer of record.  
  
 \$ 387.77 -- Expenses incurred due to obstruction of service on  
 two occasions  
  
 \$ 256.00 -- Deposit because of obstruction  
  
(\$ 900.00) -- Payment by Complainant  
  
 \$1,198.61 -- TOTAL BALANCE

The unpaid balance for service of \$89.23 is for the period ending on the  
 meter reading of November 2, 1994. This period is when Cheryl Outlaw was the  
 customer of record and still a tenant at 2023 Rule. Subsequently, Outlaw moved  
 from the premises and Complainant attempted to have service placed in his name.  
 Whether Complainant owes this amount, then, rests on his residence during the  
 period May 6, 1994, to November 2, 1994.

UE's tariff provides that

[t]he Company shall not be required to commence supplying  
 service to a customer, or if commenced the Company may  
 disconnect such service, if at the time of application such  
 customer or any member of his household (who have both  
 received benefit from the previous service) is indebted to the  
 Company for the same class of service previously supplied at  
 such premises or any other premises until payment of, or  
 satisfactory payment arrangements for, such indebtedness shall  
 have been made.

P.S.C. MO. No. 5, Sheet No. 133.

Commission rules at 4 CSR 240-13.050 provide the reasons that service  
 can be disconnected, section (1), and the reasons why service cannot be discon-  
 nected, section (2). The provisions applicable to this case are that service can  
 be disconnected for "[u]nauthorized interference, diversion or use of the utility  
 service situated or delivered on or about the customer's premises; ..." 4 CSR  
 240-13.050(1)(C). The provisions applicable to this case which are not

sufficient reason to disconnect are 4 CSR 240-13.050(2)(B), (D) and (E). These provisions are as follows:

(2) None of the following shall constitute sufficient cause for a utility to discontinue service:

. . . . .

(B) The failure of the customer to pay for service received at a separate metering point, residence or location. In the event of discontinuance or termination of service at a separate residential metering point, residence or location in accordance with these rules, a utility may transfer and bill any unpaid balance to any other residential service account of the customer and may discontinue service after twenty-one (21) days after rendition of the combined bill, for nonpayment, in accordance with this rule;

. . . . .

(D) The failure to pay the bill of another customer, unless the customer whose service is sought to be discontinued received substantial benefit and use of the service;

(E) The failure of a previous owner or occupant of the premises to pay an unpaid or delinquent bill except where the previous occupant remains an occupant or user; ...

Based upon the evidence before the Commission, UE's tariff provisions and Commission rule 4 CSR 240-13.050, the Commission finds that UE inappropriately attempted to charge Complainant for the unpaid bill of Cheryl Outlaw from 5111 Vernon. This was done even though there was no connection between Complainant and 5111 Vernon and no indication that Complainant has received any "benefit" from the use of electricity at 5111 Vernon. Even though UE has now dropped the requirement that Complainant pay the unpaid bill of Cheryl Outlaw from 5111 Vernon, the Commission believes that this complaint and the ensuing actions taken by Complainant to divert UE's service would not have occurred if UE had not made that demand. UE could have avoided this complaint and avoided the safety hazards and expense concerning the unlawful usage at 2023 Rule if it had paid closer attention to its tariffs and Commission rules. Some evidence of the connection between Complainant and 5111 Vernon should have been established

before Complainant was denied service because of the unpaid balance of Cheryl Outlaw from that address.

As for the \$89.23 unpaid balance from the period May 6, 1995, to November 2, 1995, the issue is whether Complainant received a benefit from the service during that period. The Commission finds that the appropriate standard is "substantial benefit" as used in 4 CSR 240-13.050(2)(D) rather than the "benefit" found in UE's tariff. Under this stricter standard, a person would have to actually reside at the location, or have some other connection with the location, for some period to be responsible for the bill. Under the lesser standard in UE's tariff, it might be argued that a person visiting or spending the night is receiving a benefit. The Commission does not believe this would show a substantial enough benefit to be liable for the electric bill.

The Commission finds that Complainant did not receive a substantial benefit from the electric service at 2023 Rule for the period May 6, 1995, to November 2, 1995. The evidence shows that Complainant was residing in Memphis, Tennessee, with his parents during this period or, when in St. Louis, he resided somewhere else. There is no indication that Complainant resided at 2023 Rule while in St. Louis during this period.

In the St. Louis area, Complainant had a place of business on Manchester in St. Louis which had living quarters. He did have a telephone number at 2023 Rule but it had call forwarding to the Manchester address. The Commission does not believe that the lack of a Tennessee driver's license or other demonstration of Complainant's stay in Memphis is determinative. There is no dispute that Complainant's parents lived in Memphis and that he lived there for certain dates during this period of time. They had health problems and required his assistance. Complainant also had his business and living quarters on Manchester. How much time Complainant spent at 2023 Rule, if any, during this period is not established, but the existence of the other place of residence in

St. Louis supports a finding that he did not receive a substantial benefit from the electric service at 2023 Rule while Cheryl Outlaw was a tenant.

The Commission finds that for the period December 5, 1994, to May 15, 1995, Complainant resided at 2023 Rule and therefore is responsible for the \$387.02. Part of this amount Complainant admits to owing, and the amount in dispute is the \$75.60 for unmeasured service during the period from May 15, 1995, to June 21, 1995. UE estimated the usage at 2023 Rule for this period by comparing that period to a similar period in 1994. This is a reasonable method of estimating the usage and since Complainant resided at 2023 Rule during the period of unmeasured service, he is liable for the estimated usage during that period.

The Commission finds that Complainant received substantial benefit from the service during the period August 26, 1991, to May 6, 1994. This was the period when Fannie Jackson was the customer of record and the Verimarks notes from UE's records (Exhibit 5, Schedule 2) show that Complainant consistently represented Jackson concerning the electric service at 2023 Rule and made payments for her. On May 18, 1993, the notes reflect that Complainant indicated to the UE representative that he still lived at the address.

The evidence shows that Jackson was married to Complainant's brother and that Complainant's nieces resided at 2023 Rule during this period. Complainant in his written testimony, Exhibit 1, did not provide any evidence concerning his residence during the period Fannie Jackson was his tenant. Neither did Complainant provide any evidence concerning his residence during the period Fannie Jackson was his tenant in his live testimony at the hearing. The Verimarks notations and the family relationship of Complainant to Fannie Jackson create a connection between Complainant and 2023 Rule during this period which Complainant has failed to overcome with his evidence.



With respect to the \$387.77, there is undisputed evidence that the meter at 2023 Rule was tampered with on two occasions and that Complainant acknowledges hiring someone to reconnect service in violation of UE's tariffs on one occasion. Based upon this evidence, the Commission finds that Complainant is liable for the \$387.77 as charged by UE as the costs for dealing with the two instances of tampering. Even though the Commission believes this situation could have been avoided if UE had not attempted to collect the unpaid balance of Cheryl Outlaw at 5111 Vernon from Complainant, there is no justification for the actions taken by Complainant. Tampering with UE's meters and electric service is a very serious violation of UE's tariff and raises serious safety concerns. UE's actions in this regard were reasonable and entirely proper.

The Commission would like to register some hesitation about the latitude UE has in its tariff on the amount to charge a customer for service calls to detect and correct the tampering that occurred. UE's tariff does not set a certain rate for inspection charges, statement charges, meter charges, sidemount locks, or other charges associated with the service trip. These charges were determined, in this instance, by Bennie S. Jones, UE's Supervisor, Field Disconnections and Diversion of Service. The charges are updated each year by Jones. There is no evidence the charges made here were unreasonable, but the Commission believes Staff should review the tariff and determine whether these charges should be specifically set out in a tariff sheet. Exhibit 5, Schedule 4; P.S.C. MO. No. 5, Sheet No. 183.

The Commission also finds that the deposit of \$256.00 is reasonable and is required to be paid by Complainant in order for service to be continued. The deposit is lawful based upon UE's tariff, which authorizes UE to require a deposit where the customer has tampered with UE's facilities. Exhibit 5, Schedule 4; P.S.C. MO. No. 5, Sheet No. 177.

Based upon the above decisions concerning the individual items included in the amount UE calculates Complainant owes for service at 2023 Rule, the Commission finds that Complainant must pay \$1,109.38 to retain service at that location. Because of the large sum and Complainant's previous payment of \$900.00, the Commission believes that Complainant should be offered a payment plan that will allow reasonable payments so that UE can recover the \$1,109.38 over the next six months. The payment plan should require a lump sum payment within thirty days of the effective date of this Report And Order of at least the \$256.00 deposit plus a portion of the \$387.77 associated with the tampering with UE's meters.

### **Conclusions of Law**

The Missouri Public Service Commission has arrived at the following conclusions of law.

The Commission has jurisdiction over the subject matter of this complaint pursuant to Section 386.390, R.S.Mo. 1994. This statute allows a person to file a complaint against a regulated public utility, such as UE, alleging any act or thing done or omitted to be done by any public utility in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the Commission. UE is a regulated public electric utility pursuant to Section 386.020(12), R.S.Mo. 1994.

In this case Complainant has alleged that UE has, in violation of Commission rules and UE's tariff, refused to transfer service to him at his house at 2023 Rule Avenue in Maryland Heights, Missouri. The allegations are that UE, unlawfully and in violation of its tariffs, required Complainant to establish his place of residence during the period in question or pay for past-due bills of his tenants, including a past-due bill from another address. Prior to the hearing, UE dropped its demand that Complainant pay the unpaid bill of his former tenant,

Cheryl Outlaw, from her previous address of 5111 Vernon Avenue. The complaint then went to hearing on the past-due amounts of Cheryl Outlaw and Fannie Jackson, the former tenants at 2023 Rule, charges for tampering, and a deposit.

The Commission, based upon the evidence, has found that Complainant is liable for all amounts charged by UE except \$89.23 due while Cheryl Outlaw was a tenant. Based upon its findings the Commission concludes that the remaining charges are lawful and in compliance with UE's tariff and Commission rules. Based upon this finding, the Commission concludes that Complainant is responsible for \$1,109.38 and must pay this amount by lump sum or by agreement with UE to maintain service at 2023 Rule Avenue.

**IT IS THEREFORE ORDERED:**

1. That the complaint filed by Douglas Bobo against Union Electric Company is upheld as to \$89.23. The complaint is dismissed on all other counts.
2. That Douglas Bobo is hereby ordered to pay \$1,109.38 to retain electric service at 2023 Rule Avenue, Maryland Heights, Missouri, within thirty (30) days of the effective date of this Report And Order or enter into a settlement agreement for payment in conformance with this Report And Order.
3. That this Report And Order shall become effective on the 2nd day of April, 1996.

**BY THE COMMISSION**



**David L. Rauch  
Executive Secretary**

( S E A L )

McClure, Crumpton and Drainer, CC.,  
concur and certify compliance with  
the provisions of Section 536.080,  
R.S.Mo. 1994.  
Zobrist, Chm., not participating.

Dated at Jefferson City, Missouri,  
on this 20th day of March, 1996.