

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE  
STATE OF MISSOURI

FILED  
April 4, 2008  
Data Center  
Missouri Public  
Service Commission

Name: MICHAEL & PAULA SEXTON  
Complainant

VS.

Company Name: Empire Distric Electric  
Respondent

Case No.

COMPLAINT

Complainant resides at 3503 N BOBOLINK  
(address of complainant)  
OZARK, MO. 65721

1. Respondent, Empire District Electric  
(company name)  
of 6025 Joplin Ave Joplin MO. 64801, is a public utility under the  
(location of company)  
jurisdiction of the Public Service Commission of the State of Missouri.

2. As the basis of this complaint, Complainant states the following facts:

<del>one</del> PLEASE SEE ATTACHED STATEMENT

3. The Complainant has taken the following steps to present this complaint to the Respondent:


WHEREFORE, Complainant now requests the following relief:


3-31-08  
Date  
March 31, 2008

Paula A. Sypton  
Signature of Complainant  


Attach additional pages, as necessary.  
Attach copies of any supporting documentation.

Statement Attachment to Formal Complaint filed with the Public Service Commission of the  
State of Missouri:

**Basis of Complaint**

On or about February 12, 2008 at approximately 11:00 p.m. my wife and I became aware of the Wright Tree crew clearing trees from the right of way behind our house. This was day two of a power outage caused by an ice storm.

Initially, we were pleased to see the efforts being made to re-establish electric service. The electric right of way at the rear of our property is 30 feet or 15 feet on either side of the power pole at the corner of our property, as stated by Eric Ponder, Empire District employee, when I inquired about the property easement right of way on or about February 13, 2008.

To our dismay, the tree cutting crew was clear cutting trees in our back yard up to a distance of 35 feet from the right of way center line, on our private property, without permission. Approximately 20 trees outside the right of way were felled.

Eric Ponder additionally stated that Empire had two employees, John Donnelson and Scott Mackey, on site during the tree cutting. I spoke with both gentlemen and was advised that the trees were cut as the trees presented potential threat to the utility lines and they had the right to fell the timber. I have pictures which show the damage to the trees on our private property. Several of the taller trees were felled by the Wright crew towards the power lines and did not damage the lines. Apparently the crew was either unskilled or they purposely allowed the trees to fall towards the power lines as there was not much of a threat or concern. Many of the other trees were within a few feet of the back of our home and were part of our landscaping. These trees were small river birch, as identified by Scott Mackey, cedar trees which we have cultivated as wildlife habitat, and other decorative trees. None of the trees were taller than 15 feet and not a threat to the lines.

I was advised by Scott Mackey that the Public Service Commission permits Empire to fell trees in an effort to restore power, whether or not the trees are outside the right of way. He also stated that the damage and debris was the responsibility of the property owner to clean up. My complaint to this statement is that Empire and not the ice storm caused the damage. The trees felled were not a threat to the system as evidenced by the direction the cutting crew felled them as well as the height of the trees were not sufficient to cause damage. At the end of our initial conversation Scott Mackey stated that "in warmer weather we will clear cut the right of way and remove everything." As much of the right of way is directly behind our home within a few feet I took this as a threat that we had not seen anything yet.

During our initial confrontation with the cutting crew my wife and I repeatedly told the crew that they were on private property and not the right of way. We were told, "we were just told to cut everything in our way and that's what we're going to do." While I was at one end of our home screaming over the noise of my generator, four chain saws and the Wright Company truck, my wife was fearful that I would have a heart attack. She came out of the house to told the crew who

were now within 15 feet of our back door that she had called the Christian County Sheriff Department. She further stated that she had a gun and wanted them to leave our property.

This was a mistake on my wife's part but one made out of frustration and fear for my safety. The crew left our property at that time. Soon several Sheriff Deputies presented to our home and arrested my wife for displaying a weapon. She has not been charged, but we are still frustrated that we felt such drastic action was necessary to protect our property.

After my wife's arrest the cutting crew returned to complete their job. I find it interesting that the trees which were subsequently cut were appropriately trimmed under the power lines and not clear cut as they had been when confronted by myself and my wife.

My formal complaint is that I do not believe that a utility company has the right to destroy private property without permission. Exacerbating the situation is that I further feel the same utility does not have the right to require the property owner to restore their own property and clean up the damage.

**Steps Taken to Present Complaint to Empire District Electric:**

I spoke with several employees of Empire District Electric as the appropriate contacts. I filed an informal complaint with the PSC.

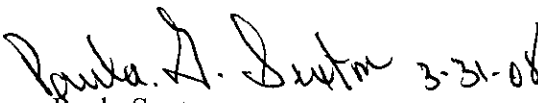
**Requested Relief:**

1. Acknowledgment by Empire District that they do not have the right to destroy private property without permission.
2. Compensation for the damage to my property and the cost of cleaning up my property.

Respectfully,

  
Mike Sexton

March 31, 2008

  
Paula Sexton