

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

Craig Mershon,	)	
Complainant,	)	
	)	
vs.	)	Case No: EC-2013-0521
	)	
Union Electric Company, d/b/a	)	
Ameren Missouri,	)	
Respondent.	)	

**EXPEDITED RESPONSE TO COMPLAINANT’S PLEADINGS**

COMES NOW, Union Electric Company, d/b/a Ameren Missouri (“Ameren Missouri” or “Company”), and for its Expedited Response to Complainant’s Pleadings states as follows:

1. On January 30, 2014, the Commission received and filed two pleadings from Complainant: one titled, “Motion of Objection for Notice of Hearing Order Resetting Procedural Schedule, and Order to File Response” (herein “Objection to Procedural Schedule”), and one titled, “Motion for An Injunctive Relief to Prevent the Sending of the Threatening Disconnection Notices” (herein “Motion for Injunctive Relief”).

2. The same day, the Commission ordered Ameren Missouri to file an expedited response to both the Objection to Procedural Schedule and the Motion for Injunctive Relief, by no later than 5 p.m. on January 31, 2014.

3. Any allegations contained in the Objection to Procedural Schedule and the Motion for Injunctive Relief not specifically admitted herein by the Company should be considered denied.

**Ameren Missouri’s Response to Objection to Procedural Schedule**

4. In the Objection to Procedural Schedule, Complainant strongly objects to the Commission’s order entered and effective January 16, 2014, in which the Commission re-set the procedural schedule for this Complaint. Complainant alleges, in part, that he “has been unable thus far to draft any pleadings regarding discovery[.]” The Company is at a loss as to why Complainant has not propounded any discovery to date. As noted in prior pleadings, he first filed Complaint EC-2012-0365 on May 7, 2012, and although that action was dismissed, it was

revived when he filed this Complaint on June 13, 2013. In particular, in a motion filed December 2, 2013, Complainant himself identified the period December 2, 2013 through January 16, 2014 as the period by which, “most of the entire discovery will be completed, depending on how swiftly documents will arrive and questions answered.”

5. Complainant proposes the following alternative schedule:

- Begin Discovery on January 27, 2014...[.]
- Deadline to Respond or Object to Discovery Served on February 7, 2014...[.]
- Final Pre-Hearing Conference to Address Discovery Disputes or other Pre-Hearing Matters on February 27, 2014.
- Evidentiary Hearing should be around 1:30 PM on a date yet to be determined depending on the completion of discovery.
- Deadline to file Post Hearing Briefs on a date to be determined depending on the completion of discovery.

6. Although the Company still strongly desires that this Complaint be processed in the timeliest manner possible, the Company has no objection to extending the deadline to serve discovery to February 7, 2014.

7. The Company believes even with a February 7, 2014 discovery deadline, there is ample time for the parties to prepare for the currently scheduled February 27, 2014 evidentiary hearing, and therefore urges the Commission to keep that setting, as well as the March 13, 2014 deadline to file post-hearing briefs.

8. The parties may still require an opportunity to address discovery disputes, however. As such, the Company proposes the following, amended schedule:

<b>Event</b>	<b>Date</b>
Deadline to Serve Discovery	February 7, 2014
Deadline to Respond or Object to Discovery Served	February 14, 2014
Final Pre-hearing Conference to Address Discovery Disputes (necessary only if discovery disputes arise)	February 19, 2014 or February 20, 2014 between 9 a.m. and 12 p.m.
Evidentiary Hearing beginning at 10:30 a.m.	February 27, 2014,

**Event**

Close of Time to File Optional Post-Hearing Briefs

**Date**

March 13, 2014

Given Staff's limited availability due to a pending rate case before the Commission, the Company has discussed the above proposed amended schedule with Staff Counsel. Staff Counsel has authorized the Company to say that Staff does not object to said schedule.

WHEREFORE, the Company respectfully requests that the Commission amend the procedural schedule as suggested in paragraph 8, above, to permit Complainant additional time to conduct discovery, and to continue towards timely resolution of the Complaint.

**Ameren Missouri's Response to Motion for Injunctive Relief**

9. In the Motion for Injunctive Relief, Complainant asks for "injunctive relief", that the Commission order the Company to cease sending him disconnection notices. As an initial matter the Company notes that, strictly speaking, the Commission lacks equitable powers and cannot grant equitable relief. *GS Technologies Operating Co., Inc. v. Public Service Commission*, 116 S.W.3d 680, 696 (Mo. App. 2003). The Company acknowledges, however, that the Commission has jurisdiction to adopt rules prescribing, among other things, the conditions of billing for and disconnecting public utility service (§386.250(6) RSMo (2000)). In support of his motion, Complainant asserts that he finds the disconnection notices, "threatening and very harsh...[and] intimidating and demanding." The issue of whether the form of the Company's disconnection notices violates any tariff, rule, statute or Commission order is an issue to be determined on the merits, after an evidentiary hearing. The evidentiary hearing on this Complaint (which Complainant asserts he, "is looking forward to", see ¶2, Motion for Injunctive Relief) is currently set for February 27, 2014. Because the Company has yet to present evidence regarding this issue, the Commission should decline to make any determination about the disconnection notices at this time.

10. Complainant implies in his Motion for Injunctive Relief that the Company has recently sent him disconnection notices and alleges that "the amount Mr. Mershon owes his[sic] being under dispute in the case." (¶5, Motion for Injunctive Relief). The Company admits that it issued disconnection notices to Complainant on January 25, 2014 and on January 30, 2014, advising that unless his \$\*\*\*.\*\* prior delinquent account balance is paid by February 10, 2014,

his electric utility service may be disconnected for nonpayment. The Company denies that the disconnection notices at issue relate to any amount in dispute in this Complaint.

11. In further answer, the Company states:

- a. The amount Complainant has disputed is \$\*\*\*\*<sup>1</sup>. See page 1, third paragraph of Complainant's Complaint, filed June 13, 2013; page 7 of Appendix A to Staff's Report filed August 9, 2013; and paragraph 10 of Complainant's "Petition" filed September 5, 2013. This amount has been suspended from collection activity but is included in the prior balance and amounts due line items in Complainant's monthly bills.
- b. Complainant currently owes a total of \$\*\*\*\*.\*\* for electric utility service. This amount includes:
  - i. \$\*\*\*\*.\*\* suspended amount in dispute;
  - ii. \$\*\*\*\*.\*\* delinquent balance. This balance has accrued because Complainant failed to pay the bill issued to him on December 26, 2013, by its due date, January 8, 2014, or by its delinquent date, January 17, 2014. This delinquent balance is calculated as follows: \$\*\*\*\*.\*\* total bill issued December 26, 2013, less \$\*\*\*\*.\*\* disputed amount, equals \$\*\*\*\*.\*\*.
  - iii. \$\*\*\*\*.\*\* amount due for current charges. The amount due for current charges is calculated as follows: \$\*\*\*\*.\*\* total bill issued January 27, 2014, less \$\*\*\*\*.\*\* disputed amount, less \$\*\*\*\*.\*\* delinquent balance, equals \$\*\*\*\*.\*\*.
- c. To assist the Commission, the Company has attached hereto as **Exhibit A** copies of Complainant's November 2013, December 2013 and January 2014 electric utility bills.

12. To the extent Complainant's assertion, "the amount Mr. Mershon owes his[sic] being under dispute in the case" (¶5, Motion for Injunctive Relief) might be read as an attempt to amend his Complaint less than a month before the scheduled hearing date, to include a dispute about amounts billed *after* he filed his Complaint in June of 2013, this should not be permitted.

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<sup>1</sup> The Company has suspended \$\*\*\*\*.\*\*, because that is the exact amount that was due when Complainant filed his Complaint, although he rounded to \$\*\*\*\*.\*\*.

In the pre-hearing conference on October 16, 2013, the Company raised this very issue, asking the Commission to make clear that additional pleadings could not be filed for the purpose of making additional complaints *in this case*. Judge Jordan stated in response, “I was not anticipating any further Complaints. And if there were, I think I’d be inclined to assign a separate Complaint number to it because we have to solidify the issues. Otherwise, we can never try the case.” (Tr. Pre-hearing Conference Vol. 2, p. 34, l. 5 – p. 36, l. 17).

13. In further answer, the Company states that 4 CSR 240-13.050(1)(A) permits utilities (provided proper notice is provided) to discontinue service for nonpayment of an *undisputed delinquent charge*. A utility is only prohibited from issuing a notice of discontinuance, “as to that portion of a bill which is determined to be an amount in dispute...or that is currently the subject of a dispute pending with the utility or complaint before the commission.” 4 CSR 240-13.050(5). The \$\*\*\*.\*\* disputed amount has been suspended from any collection activity, and will remain suspended from any collection activity at least until the resolution of this Complaint. Therefore, it is proper for the Company to send disconnection notices related to the \$\*\*\*.\*\* *undisputed delinquent charges*.

14. At the close of his Motion for Injunctive Relief, Complainant urges the Commission, “to stop all disconnection notices [] towards Mr. Mershon until his case has been resolved.” To the extent he is urging the Commission to order the Company not to issue disconnect notices to Complainant for *delinquent past due balances that are not in dispute*, this request should be denied. In addition to the authority cited above, 4 CSR 240-13.070(7), which permits dismissal of complaints for failure to pay the amount of a bill that is not in dispute, evidences the Commission’s view that complainants are still required to pay their current charges while a complaint regarding past charges is pending. Consistent therewith, 4 CSR 240-13.050(1)(A) permits utilities (provided proper notice is provided) to discontinue service for nonpayment of an *undisputed delinquent charge*.

WHEREFORE, Complainant's Motion for Injunctive Relief should be denied.

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Expedited Response to Complainant's Pleadings was served on the following parties via electronic mail (e-mail) or via regular mail on this 31st day of January, 2014.

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**Exhibit A is  
Highly Confidential in its entirety**