

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

Earnette Smith,)	
)	
Complainant,)	
)	
v.)	<u>Case No. GC-2011-0009</u>
)	
Union Electric Company,)	
d/b/a AmerenUE,)	
)	
Respondent.)	

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, and recommends that the Missouri Public Service Commission (“the Commission”) set this matter for hearing so that the Complainant may have the opportunity to provide evidence in support of his allegations. In support of this recommendation, Staff states as follows:

THE INFORMAL COMPLAINT

1. On May 11, 2010, Mr. Earnette Smith (“Mr. Smith” or “the Complainant”) initiated an informal complaint against Union Electric Company d/b/a AmerenUE (“AmerenUE” or “the Company”), disputing a bill that purported to charge Mr. Smith for estimated gas usage in order to correct for a meter malfunction at his residence.

2. As indicated in Appendix A, Staff investigated Mr. Smith’s informal complaint and concluded that the Company’s estimations were consistent with Mr. Smith’s historical usage and that the Company appeared to be operating within the guidelines of both its tariffs and the Commission’s rules.

THE FORMAL COMPLAINT

3. On July 8, 2010, Mr. Smith filed a formal complaint, disputing the accuracy of his re-billed statement and alleging malfeasance in the Company's practices.

4. On August 11, 2010, AmerenUE filed its *Answer* to Mr. Smith's formal complaint, generally denying any allegations of wrongdoing and requesting that the matter be dismissed, or in the alternative, that the Commission issue an order advising Mr. Smith that his complaint may be dismissed for failure to pay an amount not in dispute and setting the matter for hearing.

STAFF INVESTIGATION

5. As shown in Appendix A and the related schedules, attached hereto and incorporated by reference herein, in the course of its investigation Staff reviewed documentation and statements provided by the Complainant, examined usage, billing, and weather information submitted by the Company, and considered payment information offered by third parties.

6. In addition, Staff reviewed the relevant Commission rules and portions of the Company's tariffs. Specifically, Commission Rule 4 CSR 240-13.025 governs billing adjustments:

(1) For all billing errors, the utility will determine from all related and available information the probable period during which this condition existed and shall make billing adjustments for the estimated period involved as follows: **...(B) In the event of an undercharge, an adjustment shall be made for the entire period that the undercharge can be shown to have existed not to exceed twelve (12) monthly billing periods or four (4) quarterly billing periods, calculated from the date of discovery, inquiry or actual notification of the utility, whichever was first.**

Emphasis added.

The factors to be considered by the Company in determining the adjustment referenced in Commission Rule 4 CSR 240-13.025 are found in Company's tariff. Specifically, these tariff

provisions provide a formula that incorporates an analysis of weather data, billing period information and prior usage history in order to calculate bills estimated for multi-month periods.

7. As indicated in Appendix A, although Staff's analysis of these factors results in a slightly different result,¹ any error made by the Company would have been to the benefit of the customer.

8. Finally, because this matter involves termination of Mr. Smith's budget billing plan, Staff also reviewed in the context of its investigation the tariff provision governing such termination. As indicated in Appendix A, based upon this investigation, Staff does not believe that Company violated the terms of its budget billing tariff.

CONCLUSION

9. Based upon Staff's investigation Staff is of the opinion that AmerenUE has not violated any Commission rule or tariff provision governing back-billing for estimated usage and/or termination of a budget billing plan.

10. Staff does not believe that Mr. Smith has provided sufficient documentation or evidence to sustain his claim that the estimated re-bill was too high or unjust. However, because Mr. Smith claims to possess mitigating evidence that he has not provided to Staff (despite multiple requests) Staff recommends that the Commission set this matter for hearing in order to provide Mr. Smith with the opportunity to present that additional evidence.

WHEREFORE, Staff recommends that the Commission set this matter for hearing in order to give the Complainant an opportunity to provide evidence that may support his allegations.

¹ Staff reviewed the calculations used by AmerenUE in calculating Heating Degree Days (HDDs) and found six (6) days of significant HDD differences. The Staff calculations of HDD yielded slightly higher numbers. The use of the larger number would have slightly increased the estimated usage, thereby slightly increasing the amounts that would have been charged.

Respectfully submitted,

/s/ Eric Dearmont

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 13th day of September, 2010.

/s/ Eric Dearmont