

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

Jimmie E. Small,)	
Complainant,)	
)	
vs.)	Case No: EC-2012-0050
)	
Union Electric Company, d/b/a)	
Ameren Missouri,)	
Respondent.)	

AMEREN MISSOURI’S RESPONSE REGARDING AVAILABLE REMEDIES

COMES NOW, Union Electric Company, d/b/a Ameren Missouri (“Ameren Missouri” or “Company”), and for its Response to the Commission’s Order issued and effective October 26, 2011, states as follows:

1. On October 5, 2011, the Commission issued an order in this Case dismissing all the parties save for Ameren Missouri, and dismissing all of Mr. Small’s claims for legal, equitable and class action relief (the “Order”).

2. The Order also noted Staff’s conclusion that the Commission has authority to hear a complaint against Ameren Missouri on whether it has discriminated against Mr. Small. In the Order, the Commission ordered the parties to state what remedy, if any, the Commission has authority to grant Mr. Small in the event he prevails in his complaint.

3. Ameren Missouri is not certain that the Commission has authority to grant Mr. Small any relief based on his complaint alleging discrimination. The Commission could, in theory, determine from evidence presented to it that Ameren Missouri somehow violated the statutory prohibitions found in §393.130.2 and .3 RSMo against providing a special rate for service or subjecting any person to “undue or unreasonable prejudice or disadvantage in any respect whatsoever.”¹ Based on such a finding, if the Commission also believed the violation were of a

¹ Ameren Missouri continues to deny that it discriminated against Mr. Small in any way. Staff, after investigation, “found no indication on the part of Ameren Missouri of illegal disconnection, discrimination based upon age, gender, retaliation for prior complaints, disability, geographical location or race, or collusion with other parties to engage in these behaviors” and recommended “a finding by the Commission that the Company’s decision to disconnect services to the Complainant’s mobile home was motivated by nothing more than the Complainant’s nonpayment on his account.” Staff’s Recommendation dated September 30, 2011.

continuing nature, it could direct its general counsel to pursue civil remedies in circuit court *in the name of the Commission*, as provided by §386.360 RSMo. However, it does not appear to Ameren Missouri that the Commission has authority to grant any relief *to Mr. Small* in the event he prevails. Further, Mr. Small is no longer a customer of Ameren Missouri so there are no grounds by which the Commission might reasonably conclude that Ameren Missouri is about to subject Mr. Small to undue or unreasonable prejudice or disadvantage.²

4. While it would also appear that, pursuant to §§386.570 and 386.600 RSMo, the Commission could file suit in circuit court to seek statutory penalties against Ameren Missouri, if it found that Ameren Missouri somehow violated the statutory prohibitions found in §393.130.2 and .3 RSMo, any monies recovered in such a suit are payable only to the public school fund of the state, and not Mr. Small. In addition, the alleged acts Mr. Small complains of occurred in 2007, and the applicable statute of limitations, § 516.390 RSMo, bars suits to recover such penalties if brought more than two years after the alleged offense.

WHEREFORE, Ameren Missouri respectfully requests that the Commission enter an order dismissing Mr. Small's complaint for failure to state a claim for which relief can be granted.

² It is when the Commission, "is of the opinion that a public utility...is...doing anything or about to do anything or permitting anything or about to permit anything to be done, contrary to or in violation of law or any order or decision of the commission," that the Commission directs its general counsel to file suit in circuit court in the name of the Commission to have such violation prevented. § 386.360.1 RSMo.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Answer was served on the following parties via electronic mail (e-mail) or via certified and regular mail on this 7th day of November, 2011.

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