

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

**FILED<sup>3</sup>**

APR 1 2015

**JIMMIE E. SMALL,  
Complainant,**

**v.**

**AMEREN MISSOURI,  
Respondent.**

)  
)  
)  
)  
)  
)  
)

**Case No. EC-2015-0058**

**Prior Case No. EC-2011-0247**

**Prior Case No. EC-2012-0050**

**Missouri Public  
Service Commission**

**COMPLAINANT'S MO. R. Civ. Proc. Rule 55.27(g) (3) MOTION TO  
DISMISS AMEREN MISSOURI'S SEPTEMBER 08, 2014 ALLEGED  
ELECTRIC UTILITY BILL CLAIM IN THE STATE AMOUNT OF \$846.15.**

**COMES NOW**, the Complainant, Pro se, an Iowa Resident since 2005, and for his Motion to dismiss, or strike Respondent's past due bill claim, states unto the Hon. Commission the following facts.

1. Respondent Utility has known of Claimant Small's Iowa residence for years . Utility corresponded with Small in context to materially disputed electric bills, at the same time period Ameren Missouri alleged to reconnect electrical power the LOT # 23, 23067 Potter Trail, Kirksville, Mo., back in 2007 time period.
2. Based on diversity jurisdiction, the Iowa Resident, Complainant is requesting the Missouri Public Service Commission [ALJ] take Judicial NOTICE under Missouri Court Rules, that reconsideration of Small's Motion for Summary Determination be and the same granted where the United States District Court entered its Order granting Small until May 31, 2015 to file a First Amended Complaint adding necessary parties in a

Civil action, *Styled Small v. City of Milton*. DIVERSITY factors were never once considered by the Commission investigators prior to Staff violating Small's privacy right in No. EC-2015-0058, later Ordered to redact the same. Prohibition is appropriate when Commission agents become personally involved in a contested case proceeding. See UNION ELECTRIC COMPANY, ACF Industries, Inc., et al, and ABEX Corporation, et al v. PUBLIC SERVICE COMMISSION, State of Missouri and Commissioner Alberta Slavin, 591 S.W. 2d 134 ( Oct. 1979).

3. Alliant Energy knows, the City of Milton knows, The Iowa Utility Board officials knows, the Mo. Pub. Comm. Staff investigators, Gay Fred, Mr. Williams, Alexander, and others know full well that Small has had electrical power at his legal residence , 606 West Hwy # 2, Milton Iowa, and has had consistent electrical service at that same location since early 2007 time period. Facts never documented by Commission Staff, thus reconsideration appears appropriate.
4. Commission Staff investigators, Gay Fred, Mary Duncan, Mr. Williams and Mr. Alexander have for unexplained reasons not completed investigative reports of said facts, with deliberate intent to give Respondent Ameren Missouri Company preferential treatment before the Mo. Public Service Commission in clear violation of the United States Constitution, Commerce Clause U.S.C.A. Const. Art. 1, sect 8, *Bendix*, 486 U.S. at 894, 108 S. Ct. 2218, and where Complainant Small has been subject to Missouri Court's Long-arm jurisdiction within the five (5) year statute of limitations for debt collection purposes.
5. The State Action decision, of the Missouri Public Service granting Respondent UE, AM, MO to advance an alleged 2007 delinquent electric

Bill in the amount of \$846.15 , in Cause NO. EC-2015-0058, is argued by Small, to impose an impermissible burden on Mo. Interstate Commerce, not imposed upon Missouri resident citizens seeking due process and equal protection of Debt Collection laws, practices, rules, Customs, over a period of years and continuing in 2015.

6. Reconsideration of contested issue before the Commission, is appropriate in the present case, where as of March 26, 2015 and continuing, Respondent Counsel, William Tomc, refused to cooperate with needed discover pending a known scheduled hearing on the merits, at a Kirksville, Missouri location.[ 04/20/2015] Mr. Tomc, by phone, become belligerent, combative, obnoxious, and completely uncooperative to the known disabled Iowa Resident seeking completion of timely discovery, in aid of meeting Small's burden of establishing non-existence of any claimed \$846.15 debt due Respondent Ameren Missouri, as set forth on September 08, 2014 [ pleading claim] some seven years after the 2007 open account surfaced for LOT # 23, 23067 Potter Trail, Kirksville, Missouri.

7. **SUGGESTIONS IN SUPPORT FOR REHEARING**

The Commerce Clause of the United States Constitution arrogates to the federal government exclusive authority to regulate interstate commerce.  
U.S.C.A. Art 1, section 8, Cl 3.

8. That the Acts, Action or Omission of Commission Staff to timely investigate the electrical power use by Small at 606 West Hwy # 2, Milton, was by design to mislead the Commission decision in favor of Respondent Union Electric Company, d/b/a Ameren Missouri, and with the intent to place, exact, impose an unconstitutional burden on interstate commerce and to further dissuade and discourage Iowa Resident Small from timely exercising his state

and federal rights to oppose what Small believes to be unconstitutional claims by a Missouri based Utility against a disabled war veteran venturing into Missouri to defend his factual and legal position in a timely manner. See STATE EX REL BLOOMQUIST v. SCHNEIDER 244 S.W. 3d 139 ( Mo. banc 2008); Bendix Autolite Corp. v. Midwesco Enterprises, Inc., 486 U.S. 888, 108 S. Ct. 2218, 100 L. Ed 2d 896 (1988).

6. The cause of action against Dr. Bloomquist is time-barred, and the preliminary writ of prohibition is made absolute. STATE EX REL BLOOMQUIST V. SCHNEIDER , 244 S.W. 3d 139 ( Mo. banc 2008).
7. A Writ of prohibition is appropriate if it is necessary to preserve “the orderly and economical administration of justice.” State ex rel Norando Aluminum, Inc., v. Rains, 706 S.W. 2d 861, 863 ( Mo. banc 1986).
8. Prohibition can be an appropriate remedy where a trial court erroneously permits a claim that is time- barred by the statute of limitations to proceed to trial. See State ex rel BP Products North America, Inc., v. Ross, 163 S.W. 3d 922( Mo. banc 2005) ( Issuing writ of prohibition to forbid proceedings on time-barred claims.)
9. On March 26, 2015, Complainant informed Respondent Counsel Tome, that intentional interference with completion of discovery and refusal to give available dates to take needed depositions in Cause No. EC-2015-0058 was accepted as Union’s intent to impose an impermissible burden upon the United States Constitution, Commerce Clause, based on Small’s prior filed Complaint[s] against Union Electric, with the Missouri Commission on Human Rights, agent Sheryl e. Rose, 111 N. 7<sup>th</sup> Street, St Louis, Missouri.
10. It shall be an unlawful practice for any employer, labor organization or employment agency to discharge, expel, or otherwise discriminate against any person because he or she has opposed any practices forbidden under this

law or because he or she has filed a complaint, testified , or assisted in any proceeding under Chapter 213, RS Mo as amended.

11. That Complainant is presently completing 2015 formal complaints against Union Electric Company, Mr. William Tomc, based on discrimination and retaliation because Small sought timely discovery before (a) the Missouri Public Service Commission 2010 time period and continuing in 2015, (b) Mr. Tomc knew Small intended to produce evidence against his employer Union Utility on April 20, 2015 and other times,
12. Complaint No. EC-2015 is also AMENDED with leave of the Commission to assert Discrimination and Retaliation claims against (a) Union Utility its agents and assigns, and because filing complaints against Union Electric Company with the Commission over a period of years constitutes a protected activity under Missouri law RSMo. Ch 213, (b) Complainant's evidence of prior filed Claims against Union Electric Company, filed with the Missouri Commission on Human Rights constitutes a protected activity under Missouri equal protection laws. RSMo. Ch. 213.
13. This Motion for reconsideration shall also be filed with the Office of Sheryl E. Rose, attached to a 2015 formal complaint against Union Electric Company based on the facts presented herein.
14. This Motion for reconsideration shall be filed with the Federal Energy Regulatory Commission, Washington, DC and because the acts, action or omission to protect Iowa Resident Small in Cause No. EC-2015-0058 and other claims is protected under Federal law.
15. Ameren Corporation is the largest electrical utility in Missouri and second largest in Illinois. Ameren companies provide energy services to about 2.4 million electric customers and 1 million natural gas customers. Footnote 98, part [ E] Need for Power paragraph 116, Project No. 459-125

ORDER ISSUING NEW LICENSE, March 30, 2007. See also FPA FEDERAL POWER ACT, 116 FERC , Section 10(a)(1) et seq FPA discussing comprehensive plan benefits to interstate or foreign commerce. Rehearing appears appropriate for consideration of Out-of-state electric customers, and involve an important public interest to all including Commission Staff who completely left Out-Of-State evidence of Small's Milton, Iowa residence out of three contested case records listed above.

16. Union Electric Company, named Defendant in the case Sarah Illig vs., Union Electric Company 652 F 3d 971; 2011 U.S. App. LEXIS 18173 is the exact same Union Electric Company as named Respondent in Small v. Union Electric Co. d/b/a Ameren Missouri, Case No EC-2015-0058.
17. Respondent Union Electric Company could have filed suit against Complainant Small back in 2007 when the Utility Company assigned its Account No. 34433-07018 to CONSUMER COLLECTION MANAGEMENT, St. Louis , Mo. back in 2007 time period. This legal suit action Union Company failed to take, permitting the statute of limitations to now bar Company's claim dated September 08, 2014 [ \$846.15 claim of past due bill attached in support].
18. In its answer to Small's complaint, Union Electric failed to raise, present or argue any affirmative defense for tolling section V.A.M.S. 516.120. Affirmative defenses such as tolling are waive if not pleaded. See Sarah Illing v. Union Electric Company, 652 F. 3d 971; 2011 U.S. App. LEXIS 18173. Rehearing is appropriate under Illig v. Union because the Commission Order overruling Small's Motion for Summary Determination never ruled on any aspect of Small's Constitutional rights to Commerce Clause protection as an Iowa Resident similar to the fact and law addressed in STATE EX REL BLOOMQUIST V. SCHNEIDER. 244 S.W. 3d 135

( Mo. banc 2008). See also Small's Request for Production upon Union, page 2, paragraph 2, CERTIFICATE OF SERVICE, dated March 12, 2015. Faxed to Matthew R. Tomic, on March 11, 2015.

19. That action by Union Electric Co. d/b/a Ameren Missouri, specifically its alleged debt collection action dated September 08, 2014 accomplished a tort action against Iowa Resident Small after the federal debt Collection Practices Act time-barred Union Utilities 2007 alleged account debt.
20. Pursuant to Rule 55.08 AFFIRMATIVE DEFENSES, states that a party shall set forth affirmative defenses in its responsive pleadings, to and including Tolling of the Statute of Limitations. This defensive action Union Company failed to do.
21. Union Electric did in fact use Mo. State Statute of limitations as a Defendant, successfully in the case, ILLIG V. Union Electric Co. 652 F. 3d 971; 2011 U.S. App. LEXIS 18173.
22. Failure of Respondent Ameren Missouri to be bound by applicable statute of limitations under state and federal law, resulting in Utilities September 08, 2014 denial to reconnect Small's office electricity, violates Federal law, 42 U.S.C. sect 2000d-3 because federal Contract Project N0. 459-128 involved federal funding projects incorporating a non-discriminatory provision. Additionally, The Federal Power Act prohibits discrimination against customer or applicants for electricity. Small's 2014 application filed with Union Electric, Am, Mo, Kirksville, Mo. office resulted in the denial of participation in a federally funded project or program, which prohibit discrimination against an Iowa resident applicant, once again imposing an a greater burden on out-of-state applicant Small, 606 West Hwy # 2, Milton Ia, than Respondent Ameren Missouri imposed on Missouri Applicants on or about September 08, 2014 or about that same time period. Thus Small

amends his complaint to include state and federal constitutional violations, without reasonable or rational basis, while under the jurisdiction of the Missouri Public Service Commission, and Commission Staff investigators.

23. In Respondent's response to Complainant's Motion for Summary Determination, Union Electric failed to argue, plead or suggest any tolling of the Statute of Limitations, under 516.120, under Mo. R. of Civ. Proc R. 55.08 Affirmative Defenses, used by Union Electric Counsel as a Missouri Defendant, Public Utility at, 652 F.3d 971.

24. Rehearing in Cause No: EC-2015-0058 appears appropriate in 2015 where Union Electric Respondent (a) serves some Two Million Four Hundred Thousand Missouri Customers (b) serves at least one (1) Iowa Resident customer, sending 2007 account Bills and sending the September 08, 2014 alleged due account debt, out-of-state, triggering Interstate Commerce Clause Claims after applicable statute of limitations time-barred the 2007 \$846.15 alleged claim. See V.A.M.S. sect 516.120 (1) Missouri standards raised by an Iowa resident not previously Ruled on. (c)

**Rehearing is appropriate** because Commission Staff over a period of years and continuing in 2015 failed to conduct proper investigative procedures and violated Small's right of privacy discouraging Small to go forward with his claims on April 20, 2015 scheduled hearing . Rehearing appears justified, under the facts of record and applicable limitations laws. See State ex rel BP Products North American, Inc., v. Ross, 163 S.W. 3d 922, (Mo. banc 2005). Mo. R. Civ. Proc. R. 55.08. Statute of Limitations.

25. "the cardinal test of the presence or absence of due process in an administrative proceeding is . . . . 'the presence or absence of rudiments of fair play long known to the law.' " it was held this required a

fair and impartial hearing officer. See Jones v. State Dept. of Public Health and Welfare, 354 S.W. 2d 37, 40(2-3) (Mo. App. 1962).

26. The presently scheduled April 20, 2015 hearing on the merits by Hon. ALJ Jordan does not appear to grant the Missouri Public Service Commission, sufficient power or authority to conduct an evidence hearing over Respondent's September 08, 2014 ANSWER to Small's faxed Complaint, docketed as No. EC-2015-0058, because the applicable statute of Limitations commenced running, based on Respondents alleged Billing records, dated back in 2007, filed with Commission Staff Gay Fred, Mary Duncan and others.

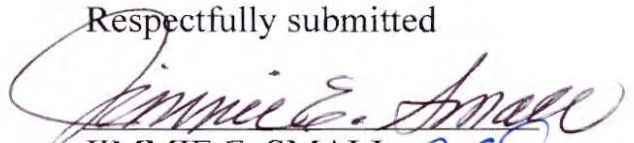
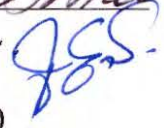
27. Rule No 55.21 (a) Pleading a Right- JUDICIAL NOTICE.

Rehearing appears appropriate in the public importance interest involving an Iowa Resident Complainant seek due process and equal protection under Iowa 5 year statute of limitations against the time-barred claims of Union Electric Company. These relevant facts Involve an Iowa Resident Small. See also Mo. R. Civ. Proc. Rule 55.08 Statute of Limitations defensively. 55.21 (a) . . . the court shall thereupon take judicial notice thereof. 55.21 (b) The court may inform itself of such laws [ Iowa laws] in such manner as it deem proper, and may call upon counsel [ Public Counsel-- Staff Counsel ? ?] to aid it in determining such information. See also Commerce Clause of the United States Constitution, U.S. Const. art. 1, sec. 8 as interpreted in *Bendix*, 486 U.S. at 894, 108 S. Ct. 2218. Small is/was subject to Missouri's long-arm statute in the event Respondent Ameren Missouri filed suit in 2007 to collect its alleged debt. This suit action Respondent elected not to pursue.

WHEREFORE, the undersigned prays for a Commission Oder, granting, Rehearing based on the Amended claim that Missouri Statute, Iowa Statute


and Federal statute of limitations, for Debt Collection **(a)** applies to Union Electric Company d/b/a Ameren Missouri owing to Utilities 2007 knowledge and assignment to consumer Collection management Case No. EC-2015-0058 **(b)** Case Illig v. Union Electric is law of the case as to Defensive Limitations law in Cause No. EC-2015-0058 **(c)** Granting rehearing on matters presented and overlooked by Commission officials, under V.A.M.S. sect. 516.120(1) would make a Petition for Writ of Prohibition, against Commission officials, unnecessary. State ex rel BP Products North American, Inc., v. Ross, 163 S.W. 3d 922( Mo. banc 2005); Union Electric Company vs. Public Service Commission and Alberta Slavin Respondents, 591 S.W. 2d 134.

Respectfully submitted

  
JIMMIE E. SMALL  
606 West Hwy # 2,  
Milton, Iowa, 52570 

### **CERTIFICATE OF SERVICE**


The undersigned certifies that copies of the foregoing motion for rehearing as to alleged debt claims asserted by Union Company, were served on Counsel for Respondent as disclosed of record, with an original copy filed with the Data Center, Missouri Public Service Commission with attached exhibits in support included. ALL done this 27 day of March 2015.

  
JIMMIE E. SMALL

**4 CSR 240-2.110 MOTION FOR CONTINUANCE OF THE  
SCHEDULED APRIL 20, 2015 HEARING ON THE MERITS**

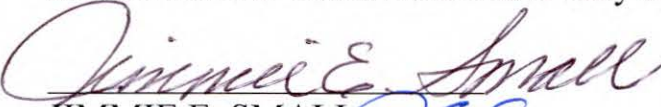
1. Complainant respectfully request a 4 CSR 240-2.110 subpart (2) Continuance of the April 20, 2015 scheduled hearing .
2. Respondent Utility has additional time to respond to (a) Request for production of documents (b) Respond to Request to Admit filed on March 11, 2015 or about that time. (c) Respondent Utility has failed to respond to Small's repeated request for available dates for Deposition discovery of material witnesses,
3. Complainant is an Iowa Resident being treated materially differently by Commission Staff investigators in that privacy of complainant have been compromised so as to discourage and dissuade Small from completing discovery and offering evidence before (a) the Missouri Public Service Commission officials, (b) The Missouri Commission on Human Rights, Small objects and amends his complaint No. EC-2015-0058 accordingly.
4. Small's United States Constitutional Rights under the Commerce Clause have been violated by Commission Staff investigators and continuing in No. EC-2015-0058 without remedy by Commission ALJ personnel, based on Small's Iowa Resident status and repeated claims of fraud, discrimination and retaliation by Ameren Missouri agents acting in concert with Commission Staff Counsel members, including violations of Complainant's Privacy Rights .

WHEREFORE, the undersigned, for the reasons state, respectfully request a continuance of the April 20, 2015, scheduled hearing and if granted would permit the Commission sufficient time to complete consideration for rehearing on the merits of said motion.

  
JIMMIE E. SMALL  
606 West Hwy # 2,  
Milton, Iowa, 52570

**CERTIFICATE OF SERVICE**

The above signed CERTIFICATE OF SERVICE is incorporated into this Motion for Continuance as if fully set out in its entirety.

  
JIMMIE E. SMALL