

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 17th  
day of July, 1992.

The Chemical Building General Partnership, )  
a Partnership, and The Abby Partnership, )  
a Partnership, )

Complainants, )

vs. )

CASE NO. EC-92-292

Union Electric Company, a Corporation, )

Respondent. )

ORDER DISMISSING COMPLAINT

On May 29, 1992, The Chemical Building General Partnership and The Abby Partnership (Complainants) filed a complaint against Union Electric Company (Respondent) alleging that Respondent unduly discriminated against them in violation of Section 393.130.3, RSMo 1986. Complainants stated that between 1984 and 1986, buildings owned by them were renovated and that Respondent informed them that it was necessary to convert their buildings from Direct Current (DC) service to Alternating Current (AC) service because Respondent would no longer provide them with DC service after the renovations. Complainants also stated that Respondent did not reimburse them for the cost of converting from DC to AC service. Complainants further stated that Respondent subsequently reimbursed other DC power users for a substantial portion of their costs for conversion to AC service.

On July 1, 1992, Respondent filed an answer to the complaint. Respondent stated that there was no undue discrimination because the difference in treatment was based on a difference in conditions. Respondent claimed that when Complainants renovated their buildings, Respondent did not have a policy of

reimbursing customers for converting from DC to AC, but that subsequently, when reimbursement became feasible, Respondent developed a reimbursement policy. Respondent also stated that the Stipulation and Agreement approved by the Commission in Case No. ED-91-122, which authorized Respondent to permanently discontinue DC service, established a reimbursement policy for customers who converted after the date of the Stipulation and Agreement. Respondent further stated that Complainants' authorized representative in Case No. ED-91-122 signed the Stipulation and Agreement thereby relinquishing Complainants' claims for reimbursement. Respondent argued that the current complaint is an improper collateral attack on the Commission's order approving the Stipulation and Agreement in Case No. ED-91-122.

The Commission finds that Complainants' authorized representative was a signatory of the Stipulation and Agreement in Case No. ED-91-122. The Commission also finds that the complaint in this case constitutes a collateral attack on the Commission's order approving the Stipulation and Agreement in Case No. ED-91-122 in that the complaint seeks a result which would be inconsistent with that order.

Such a collateral attack is prohibited by Section 386.550, RSMo 1986, which bars the collateral review of final Commission orders involving matters properly within the Commission's jurisdiction. *State ex rel. Harline v. Missouri Public Service Commission*, 343 SW2d 177 (Mo. App. 1961). Thus, the Commission determines that the complaint in this case is an improper collateral attack and should be dismissed.

IT IS THEREFORE ORDERED:

1. That the complaint of The Chemical Building General Partnership and The Abby Partnership against Union Electric Company is hereby dismissed.

2. That this Order shall become effective on July 28, 1992.

BY THE COMMISSION

*Brent Stewart*

Brent Stewart  
Executive Secretary

(S E A L)

McClure, Chm., Rauch, Perkins,  
and Kincheloe, CC., Concur.  
Mueller, C., Absent.

