

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office
in Jefferson City on the 19th
day of October, 1993.

Coin Acceptors, Inc., and Hunter Avenue)	
Property, L.P.,)	
)	
Complainants,)	
)	
v.)	<u>Case No. EC-94-82</u>
)	
Union Electric Company,)	
)	
Respondent.)	
)	

ORDER DISMISSING COMPLAINT

On September 2, 1993, Coin Acceptors, Inc., and Hunter Avenue Property, L.P., (Complainants) filed a Complaint (also "New Complaint") against Union Electric Company (UE) reiterating the allegations of the complaint filed in Case No. EC-93-248 and alleging in addition thereto "new evidence" that they claim warrants a new investigation by the Commission. On October 6, 1993, UE filed its Answer And Motion To Dismiss alleging that Complainants' "new evidence" was contained in Section 12 of the New Complaint and was insufficient to reopen the case. UE states that the sole "new evidence" is as follows:

"The City of Clayton wants Union Electric to move the Marshall-Hunter line to Clayton's (the eastern side) of the railroad right-of-way."

Complainants have alleged in both this case and Case No. EC-93-248 that UE abused its discretion by locating a section of the Marshall-Hunter transmission line project in St. Louis County above and across a twenty foot wide portion of the adjoining parking lot on the east side of Complainants' property located at 300 Hunter Avenue in Clayton, Missouri. On May 21, 1993, the Commission issued its Order Dismissing Complaint in Case No. EC-93-248 and subsequently issued an Order Denying Application For Rehearing on June 11, 1993. That case

is presently pending on an appeal by Complainants to the Circuit Court of Cole County, Missouri, as Case No. CV193-899CC. The Commission's ultimate finding in Case No. EC-93-248 is as follows:

Again, the Commission's sole determination is to consider whether UE abused its discretion in the actual transmission site selection process that was used. The Commission finds, in light of the verified information supplied by UE, that UE did not abuse its discretion in the initial transmission siting in that a design engineer did use a computer program to locate and select structure types for the transmission line. Also, the Commission finds that UE in fact has considered alternatives for the transmission line to eliminate the Complainants' alleged objection. The Commission finds that UE's conclusions that alternate routes would be inappropriate was a reasoned decision based on the known facts and that the conclusion to not relocate the transmission route was not arbitrary, unreasonable or capricious. The Commission's specific and necessary finding is that UE did not "abuse its discretion" in the transmission route siting process for the easement that is the subject of the complaint herein.

The Commission, after considering the New Complaint, the Answer, and its previous ruling in Case No. EC-93-248, determines that the New Complaint herein should be dismissed. Complainants have attached several exhibits to their New Complaint which consist of a series of letters between UE and the City of Clayton which occurred subsequent to the Commission's Order Dismissing Complaint in Case No. EC-93-248. Apparently, UE was still considering the possibility of an alternate transmission route to satisfy Complainants. The conclusion that Complainants draw from this correspondence is that: "Union Electric is abusing its discretion by ignoring the wishes of the affected property owners." In fact, as UE states in its Answer, subsequent to the correspondence, representatives of Complainants, UE, Citizens for Model Transit and the City of Clayton met to discuss these alternate line alignments. UE states that subsequent to this meeting, "it is clear that the City (Clayton) is now satisfied with the proposed alignment. This is illustrated by the fact that the City of Clayton has: (1) issued to Union Electric all necessary building permits; (2) granted the

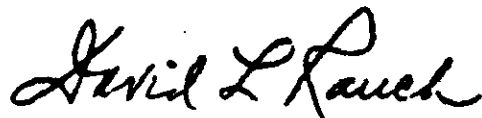
Marshall-Hunter project a waiver from Clayton's undergrounding ordinance; and (3) not sought to intervene in this proceeding." An Order of Condemnation against Complainants in favor of UE for the easement rights necessary to construct the Marshall-Hunter transmission line was granted on September 2, 1993, in the Circuit Court of St. Louis County.

The Commission finds that once again UE has indicated in its Answer that alternate routes have been considered by it and that they are inappropriate for varied reasons. This merely demonstrates to the Commission that UE has truly considered alternate routes and that its conclusion not to relocate the transmission route was not arbitrary, unreasonable or capricious. The so-called "new evidence" does not in any way address UE's initial transmission siting process that the Commission has previously found not to have been an abuse of discretion by UE. The Commission would view this New Complaint as a means for Complainants to cause delay of the construction. The Commission for all these reasons determines that a hearing is not required as the Complaint filed herein offers no "new evidence" to alter the Commission's previous finding and order in Case No. EC-93-248.

IT IS THEREFORE ORDERED:

1. That the Complaint of Coin Acceptors, Inc., and Hunter Avenue Property, L.P., against Union Electric Company be hereby dismissed.
2. That this order shall become effective on October 29, 1993.

BY THE COMMISSION



David L. Rauch
Executive Secretary

(S E A L)

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

