

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

In the Matter of the Application of)
JERRY WEST and SHARON WEST)
to Change the Electrical Supplier)
for Part of their Property.)

Case No. EO-2009-0272

**NOTICE of Complaint
and
ORDER Directing Filings and Changing Designation of Case**

Issue Date: January 22, 2009

Effective Date: January 22, 2009

The Missouri Public Service Commission gives notice of this action to Cuivre River Electric Cooperative, Inc., (“Cuivre River”), sets and re-sets filing deadlines, and grants the motion of Union Electric Company, Inc. (“AmerenUE”) to treat the complaint as an application for change of supplier.

A. Procedure

On November 14, 2008 Jerry West and Sharon West (“the Wests”) commenced this case by filing a pleading on a “complaint” form. The Commission issued notice to AmerenUE, which filed a response on December 19, 2008. The Commission also issued notice to Cuivre River, but that notice was misdirected.

B. Notice to Cuivre River

The Commission will order that notice of this case be sent again to Cuivre River by certified mail. The Commission will also order Cuivre River to file a response to the Wests’ pleading. The Commission’s rules of discovery are set forth at 4 CSR 240-2.090. As an alternative to the formal evidentiary hearing procedure, the Commission offers mediation, which is a voluntary process in which a neutral person assists the parties in

exploring opportunities for settlement. Upon a request for mediation, the Commission may suspend the schedule set forth in this order.

C. Case Designation

AmerenUE's response notes that the Wests' pleading alleges no violation of any tariff or Commission regulation. They only ask to change the electrical supplier for part of their property to Cuivre River. A change of electrical supplier is subject to § 393.106.2,¹ which provides:

Once an electrical corporation . . . lawfully commences supplying retail electric energy to a structure through permanent service facilities, it shall have the right to continue serving such structure, and other suppliers of electrical energy shall not have the right to provide service to the structure except as might be otherwise permitted in the context of municipal annexation, pursuant to section 386.800, RSMo, and section 394.080, RSMo, or pursuant to a territorial agreement approved under section 394.312, RSMo. The public service commission, upon application made by an affected party, may order a change of suppliers on the basis that it is in the public interest for a reason other than a rate differential. The commission's jurisdiction under this section is limited to public interest determinations [.]

That statute and related provisions of law describing the legal rights, privileges, and duties of AmerenUE, the Wests, and Cuivre River, guide the disposition of the Wests' pleading. The Commission will accordingly treat the Wests' pleading as an application for change of supplier, including assigning this action a different case style and case number, as set forth in the caption of this notice and order.

¹ Sections are in the 2000 Revised Statutes of Missouri.

D. Stipulation

AmerenUE's response asks the Commission to give the parties time to develop a stipulation of facts, on which to submit part or all of this case, before scheduling a hearing. The Commission's regulation 4 CSR 240-2.115(1) provides:

Stipulations and Agreements.

(A) The parties may at any time file a stipulation and agreement as a proposed resolution of all or any part of a contested case. A stipulation and agreement shall be filed as a pleading.

(B) The commission may resolve all or any part of a contested case on the basis of a stipulation and agreement.

Further, § 536.060 provides:

Contested cases^[2] . . . may be resolved by stipulation[.] Nothing contained in sections 536.060 to 536.095 shall be construed . . . (3) to prevent the waiver by the parties (including, in a proper case, the agency) of procedural requirements which would otherwise be necessary before final decision, or (4) to prevent stipulations or agreements among the parties (including, in a proper case, the agency).

Those provisions allow the parties to avoid an evidentiary hearing. The Commission will grant that request by setting and re-setting filing deadlines. The Commission will also order the parties to report their progress in developing a stipulation.

E. Filing Deadlines

Further, the Commission will set and re-set filing deadlines to accommodate the rulings in this order.

THE COMMISSION ORDERS THAT:

1. This action shall bear case no. EO-2009-0272.

² See §§ 536.063(1), RSMo Supp. 2007, and 536.010(4).

2. This action shall bear the style set forth in the caption of this notice and order.
3. The Commission's Data Center shall send this notice and order to Cuivre River Electric Cooperative, Inc., ("Cuivre River") by certified mail, return receipt requested, with a copy of the application filed by Jerry West and Sharon West ("the Wests") for change of supplier.
4. Cuivre River shall file a response to the Wests' application no later than February 13, 2009.
5. The Commission's Staff shall file its recommendation as to the Wests' application no later than February 20, 2009.
6. No later than February 27, 2009, AmerenUE and Cuivre River shall file a report of their progress in reaching a stipulation with each other and with the Wests.
7. This order is effective immediately upon issuance.

(S E A L)

BY THE COMMISSION



Colleen M. Dale
Secretary

Daniel Jordan, Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 22nd day of January 2009.