BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

CHARLES HARTER, )

COMPLAINANT )

V. )FILE NO. EC-2023-0281

MISSOURI AMERICAN WATER COMPANY )

RESPONDENT )

COMPLAINANT’S RESPONSE TO STAFF RESPONSE

& RESPONDENT’S RESPONSE AND AFFIRMITIVE DEFENSE

TO COMPLAINANT’S MOTION FOR PENALTY

COMES NOW Complainant, and for his Response, states:

1. Neither the Staff nor Ameren response actually responds to the central contention of the Motion, that 20 CSR 4240 13.070 (6)(7) require that once a dispute becomes a FORMAL complaint, as here, that the utility has no authority to determine on its own any facts to authorize it to disconnect, including determining whether or not complainant has failed to pay an amount not in dispute, as it has only “grounds for” to argue for such action but to get authority to act, must apply to the commission, which it didn’t do.
2. In short, the regulatory scheme of the rule 20 CSR 4240 13.070 regarding discontinuance of service seems to be
3. In a consumer/utility dispute the utility can disconnect but only if the consumer refuses to pay the undisputed amount, to which the parties must agree
4. If they do not agree, then the utility must advise the consumer how to file an informal complaint
5. If a consumer files an informal complaint, he cannot be disconnected until 30 days after the PSC decides it, giving the consumer time to file a formal complaint
6. If they file a formal complaint, and the parties don’t agree on an undisputed amount, then the utility cannot disconnect unless or until the undisputed amount is liquidated and determined by PSC,
7. Why would the statutory scheme protect from disconnection throughout the process but then end its protection during a hearing when it would be most relevant?
8. Item 7 of the Staff Response says “Complainant did not pay the undisputed portion of his overdue bill.” SAYS WHO? Staff did not say so. The Commission did not say so. This is a formal hearing being set for its hearing date, after-the-fact conclusions of staff are immaterial. If staff wished to make this its determination, it should have so stated in its report, but it did not do so. As such, the amount in dispute is just that, an amount IN DISPUTE, and neither party at this stage of the hearing process can unilaterally claim to know the answer. The commission cannot act because there is no issue before it. The utility cannot act because it has only its belief it has “grounds for” disconnection, it does not have a determination of an amount in dispute, only an allegation, thus no authority to act.
9. In item 5, the Staff Response says “There is no rule of the commission that prohibits a utility from terminating service during the pendency of a formal complaint, although that is Ameren Missouri’s practice. Rather than Ameren Missouri being obliged to move for leave to disconnect, it is Complainant that must move the commission for a stay order.”
10. Staff does not understand that this is not how our United States of America constitutional system of limited government works. The government cannot act against a citizen without authority to do so, which is called “due process’. Mo. Const. Art. I Sect 10. If, as staff admits, there is no authorizing law (rule) to take an action to deprive a citizen of its rights (electricity), then it cannot be done. Perhaps Ameren refrained from disconnecting, not because it is “its practice” but because it knew it did not have authority to do so and did not want to incur liability, note that Ameren does not make this argument, in its response, for itself, that staff assumes on its behalf.
11. As to Ameren’s Response, in item 4 of its Affirmative Defense it seems to brag that the commission “unanimously” denied complainant’s Petition to Amend Rule AX-2023-0287, but complainant points out that the Office of the Public Counsel, who by statute represents the people, not the utilities, in its brief supported complainant’s petition and endorsed the commission to take up a full hearing on the rule amendment proposed by complainant.

WHEREFORE, complainant prays its Motion and Amended Complaint be granted as prayed and for such other and further orders as are proper in the premises.

I certify that a full and complete copy of the above was transmitted to staff & respondent by email to its counsel through EFIS this 17th day of May, 2023

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