

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

Craig Mershon,	)	
	)	
Complainant,	)	
	)	
vs.	)	Case No: EC-2013-0521
	)	
Union Electric Company, d/b/a	)	
Ameren Missouri,	)	
Respondent.	)	

**AMEREN MISSOURI'S POST-HEARING BRIEF**

COMES NOW Union Electric Company d/b/a Ameren Missouri (the "Company") and respectfully submits its post-hearing brief.

**I. Introduction**

Mr. Mershon filed a complaint against the Company on June 13, 2013 and supplemented it by a pleading styled "Petition" filed on September 4, 2013 (collectively, the "Complaint"). Although Mr. Mershon's Complaint did not allege a violation by the Company of any particular statute, rule, Commission order or tariff<sup>1</sup>, the following issues may be inferred from the allegations of the Complaint: a. whether the Company's customer service practices violate 4 CSR 240-13.040 (2)(A),(B) and (C); b. whether the Company is charging Mr. Mershon the proper rate for his electric utility service; c. whether the Company's bills violate 4 CSR 240-13.020(1),(2) and (9); d. whether the Company overbilled Mr. Mershon in the amount of \$\*\*\*.\*\*, and e. whether the Company's disconnection notices to Mr. Mershon violate 4 CSR 240-13.050(1),(4),(5),(7) and (9).

Because Mr. Mershon brought the Complaint, he has the burden of proving that the Company violated a statute, rule, order or Commission-approved tariff.<sup>2</sup> He must prove the

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<sup>1</sup> Section 386.390 RSMo requires complainants to set forth, "in writing... any act or thing done by any...public utility, in violation, or claimed to be in violation of any provision of law, or of any rule or order or decision of the commission[.]"; *see also* the nearly identical wording of 4 CSR 240-2.070(4).

<sup>2</sup> *State ex rel. GS Technologies Operating Co., Inc. v. Pub. Serv. Comm'n of State of Mo.*, 116 S.W.3d 680, 693 (Mo. Ct. App. 2003).

violation by a preponderance of the evidence—that it is more likely than not.<sup>3</sup> Mr. Mershon failed to appear (in person or by phone) at the evidentiary hearing held on February 27, 2014.<sup>4</sup> Because he did not appear, he presented no evidence whatsoever to support a finding against the Company on these or any other issues. Although the Company did not have the burden of proof, the Company appeared at the evidentiary hearing and presented evidence proving that it has complied with applicable rules and tariffs in its dealings with Mr. Mershon.<sup>5</sup>

## **II. Issues.**

### **a. Whether the Company’s customer service practices violate 4 CSR 240-13.040(2)(A),(B) and (C).**

Mr. Mershon has made numerous general criticisms about the Company’s customer service, but has not identified any particular Commission statute, rule, order or approved Company tariff that he believes the Company’s customer service practices violate. He alleges, for example, that the Company, “does not have a proper due process system to satisfy complaints initiated by the customers. The administration of Ameren Missouri does not participate in the complaints the customers bring before the company even after customers ask to speak with a person on the administrative level[.]”<sup>6</sup> “does not have very good customer service and this has been going on since Mr. Mershon was a customer since 1987 and likely before that time[.]”<sup>7</sup> and “[t]he company has very bad customer service given by both Ameren Missouri and the Missouri Public Service Commission.”<sup>8</sup> Mr. Mershon has offered no evidence to support his allegations, nor has he shown how his allegations, if true, would constitute a violation of any statute, rule, order or approved tariff.

The Company, through the testimony of its expert, Cathy Hart, who was a customer service supervisor with the Company for over ten years at the time the Complaint was filed<sup>9</sup>, proved that the customer service the Company provides complies with 4 CSR 240-13.040, the

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<sup>3</sup> *Bonney v. Environmental Engineering, Inc.*, 224 S.W.3d 109, 120 (Mo. App. 2007); *State ex rel. Amrine v. Roper*, 102 S.W.3d 541, 548 (Mo. banc 2003); *Rodriguez v. Suzuki Motor Corp.*, 936 S.W.2d 104, 110 (Mo. banc 1996). *Holt v. Director of Revenue, State of Mo.*, 3 S.W.3d 427, 430 (Mo. App. 1999); *McNear v. Rhoades*, 992 S.W.2d 877, 885 (Mo. App. 1999); *Rodriguez*, 936 S.W.2d at 109 -111; *Wollen v. DePaul Health Center*, 828 S.W.2d 681, 685 (Mo. banc 1992).

<sup>4</sup> Tr. p. 131, l. 1-12.

<sup>5</sup> Tr. p. 136, l. 18 through p. 167, l. 13, testimony of the Company’s expert witness Cathy Hart, and Ameren Missouri Exhibits (hereafter “Co. Ex.”) 1HC, 2HC, 3HC and 4.

<sup>6</sup> Petition, p. 7, para. 6.

<sup>7</sup> Petition, p. 3, para. 14.

<sup>8</sup> Petition, p. 7, para. 10.

<sup>9</sup> Tr. p. 137, l. 10-15.

purpose of which rule is to, “establish[] procedures to be followed when customers make inquiries of utilities, so the inquiries are handled in a reasonable manner.” Since Mr. Mershon’s customer service criticisms focus on how the Company treats customers, Ms. Hart specifically addressed the Company’s compliance with 4 CSR 240-13.040(2)(A),(B) and (C). She testified that: a customer may contact the Company by calling its customer contact center at the number provided on disconnect notices and bills, at which time a representative will verify the caller is a customer so that information about the customer’s account can be shared;<sup>10</sup> during normal business hours, the Company makes personnel available who are knowledgeable about and have access to the customer’s bills and accounts, to address customer inquiries, service requests and complaints;<sup>11</sup> during normal business hours there are Company personnel available who are authorized to enter into written agreements with customers;<sup>12</sup> and that at all times, there are Company personnel available to talk to customers about emergency conditions that might exist with the Company’s service area.<sup>13</sup> She also established the reasonableness of the Company’s practice of having customers speak with customer service personnel in the Company’s contact center about matters like billing problems, service problems or deposits, rather than speaking with administrative personnel of the Company. She testified that customer service personnel in the Company’s contact center are trained to handle such questions,<sup>14</sup> and that they have direct access to the account information necessary to assist a customer, such as collection activity detail reports such as Ameren Missouri Exhibit 3HC.<sup>15</sup>

Staff also reached a conclusion contrary to Mr. Mershon regarding the Company’s customer service. In its Report, Staff found, “...based on Staff’s review of prior calls between the Company and Mr. Mershon, it appears that Mr. Mershon became agitated with the Company’s customer service representative(s) when they could not provide him with the answers he desired.”<sup>16</sup> With regard to the Company’s customer service generally, Staff reported, “Staff confirms that the Company is also in compliance with relevant Commission rules and regulations regarding customer service...[and]Staff believes that the Company’s customer service

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<sup>10</sup> Tr. p. 147, l. 3-10; p. 148, l. 11-14.

<sup>11</sup> Tr. p. 147, l.11-24; 4 CSR 240-13.040(2)(A).

<sup>12</sup> Tr. p. 148, l. 15-19; 4 CSR 240-13.040(2)(B).

<sup>13</sup> Tr. p. 148, l. 20-24; 4 CSR 240-13.040(2)(C).

<sup>14</sup> Tr. p. 148, l. 25 through p. 149, l. 15.

<sup>15</sup> Tr. p. 144, l. 1-14.

<sup>16</sup> Staff Ex. A HC, p.6.

representatives (and Commission Staff) attempt to satisfy its customers to the best of their ability.”<sup>17</sup>

**b. Whether the Company is charging Mr. Mershon the proper rate for his electric utility service.**

In his Complaint, Mr. Mershon alleges that “my electric bill is very high[,]”<sup>18</sup> the Company overcharges underprivileged groups, especially persons with disabilities like himself, “a huge amount of money[,]”<sup>19</sup> and “[t]he company charges huge amounts in their utility bills. Many people who are within protected groups have a lot of problems paying their bills on a monthly basis because of their limited income.”<sup>20</sup> Arguably, these and similar allegations imply that the Company should charge Mr. Mershon a different rate for the electric utility service it provides to him. Mr. Mershon did not make any allegations or present any evidence as to what rate he believes he should be charged.

The Company presented evidence that the rate it charges all residential electric customers is Rate 1M.<sup>21</sup> This is in accordance with the Commission-approved Union Electric Company Electric Service Tariff Sheet 54, Service Classification No. 1(M) Residential Service Rate, and in particular, Tariff Sheet 54.2, 1. Rate Application, which provides, in part, “[t]his rate is applicable to all normal residential service supplied by the Company to individually metered residences and apartments consisting of one or more rooms for the use of one or more persons as a housekeeping unit with space for eating, living and sleeping, and permanent provisions for cooking and sanitation.”

Mr. Mershon uses electricity provided by the Company at his apartment.<sup>22</sup> The Company charges Mr. Mershon Rate 1M for the electric utility service it provides to him.<sup>23</sup> The bills he receives reflect that Rate 1M is the rate he is being charged.<sup>24</sup> The Company does not have a reduced or special rate that it is able to charge underprivileged groups such as the elderly, low income or disabled, for residential electric service, but must charge all residential customers the

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<sup>17</sup> Id.

<sup>18</sup> Petition, unnumbered second paragraph of cover letter.

<sup>19</sup> Complaint, unnumbered first and third paragraphs.

<sup>20</sup> Petition, p. 6, para. 27.

<sup>21</sup> Tr. p. 151, l. 5-13;

<sup>22</sup> Complaint, unnumbered last paragraph.

<sup>23</sup> Co. Ex. 1HC.

<sup>24</sup> Co. Ex. 2HC.

same rate.<sup>25</sup> As Staff points out in its Report, “If there are rates for a special class of customers that are not designed to collect all of a utility’s costs to serve them, then the utility’s costs not recovered by the rates charged those classes would be required to be paid from other customers, which is discriminatory, and may be unlawful.”<sup>26</sup> Because Mr. Mershon is receiving residential electric service from the Company, the Company is complying with its electric service tariffs by charging him Rate 1M for his service and cannot charge him a different rate.

**c. Whether the Company’s bills violate 4 CSR 240-13.020(1), (2) and (9).**

Mr. Mershon has made various general criticisms regarding the bills he has received. He has alleged, “[t]he company’s tariffs show hatred and put fear in the customer in order to have them pay their utility bills[,]”<sup>27</sup> “the company charges huge amounts on utility bills where many cannot pay them on a monthly basis[,]”<sup>28</sup> and “the company should have a better way of notifying customers that their accounts or[sic] delinquent rather than threatening and intimidating them[,]”<sup>29</sup> “the company should notify customers when they believe it is time to get energy assistance to pay their utility bills”<sup>30</sup> Arguably, these allegations may constitute a complaint that the bills somehow violate the Commission’s billing and payment standards at 4 CSR 240-13.020(1), (2) and (9).

The bills admitted into evidence as Ameren Missouri Ex. 2HC, and the testimony of Ameren Missouri’s witness, Cathy Hart, demonstrate that the bills sent to Mr. Mershon were sent in the frequency required, were computed according to, and included all information required to be included under, 4 CSR 240-13.020(1), (2) and (9): the bills were rendered monthly<sup>31</sup>, the bills included the beginning and ending meter readings and the dates of the readings<sup>32</sup>, the date when the bill was considered due and the date when it would be delinquent<sup>33</sup>, any previous balance<sup>34</sup>,

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<sup>25</sup> Tr. p. 151, l. 14-23; Union Electric Company Electric Service Tariff Sheet 54.2, Service Classification No. 1(M) Residential Service Rate, 1. Rate Application

<sup>26</sup> Staff Exhibit 1HC, p. 7

<sup>27</sup> Petition, p.8, para. 15.

<sup>28</sup> Petition, p. 8, para. 16.

<sup>29</sup> Petition, p. 8, para. 4.

<sup>30</sup> Petition, p. 9, para. 5.

<sup>31</sup> Co. Ex. 2HC.

<sup>32</sup> Co. Ex. 2HC; Tr. p. 155, l. 17 through p. 156, l. 4

<sup>33</sup> Co. Ex. 2HC; Tr. p. 156, l. 5-10.

<sup>34</sup> Co. Ex. 2HC; Tr. p. 156, l. 11-13.

the amount due for the most recent billing period for electric usage<sup>35</sup>, the amount due for other authorized charges, if any<sup>36</sup>, the total amount due<sup>37</sup>, the toll-free telephone number and address where the customer may initiate an inquiry or complaint<sup>38</sup>, and taxes<sup>39</sup>.

Although not specifically required by the billing and payment standards at 4 CSR 240-13.020(9), the Cold Weather Rule at 4 CSR 240-13.055, or the Company's tariffs, Mr. Mershon's bills also reflect remaining payment agreement amounts and the number of remaining installments.<sup>40</sup> The bills also included reminders about budget billing requirements<sup>41</sup>, pending and received energy grants<sup>42</sup>, notification regarding defaulted payment agreements<sup>43</sup>, and budget bill behind amounts that were accruing<sup>44</sup>.

The evidence presented by the Company proves that its bills to Mr. Mershon for residential electric utility service comply with 4 CSR 240-13.020. Staff also reached this conclusion, "Staff has verified that Mr. Mershon has received, on a monthly basis, his bill which states his current usage amount and past due balance or any payment arrangement he may have entered into with the Company. Therefore, Staff believes that Ameren Missouri is not in violation of 4 CSR 240-13.020(1) and (9)."<sup>45</sup>

**d. Whether the Company overbilled Mr. Mershon in the amount of \$\*\*\*.\*\*.**

Mr. Mershon alleged in his Complaint that, "I kept my agreement I paid the amount listed on the agreement. Now I owe \$\*\*\*.\*\* even after I have been paying every month. This type of service has been an ongoing frustration with the company over charging people with disabilities."<sup>46</sup>

The Company's evidence proves that contrary to Mr. Mershon's assertions, he did not keep his payment agreement, he did not pay the amounts required under the agreement, and the Company did not overcharge Mr. Mershon the \$\*\*\*.\*\* in dispute in this Complaint. The amount in dispute is a correct and proper charge and accrued for a number of reasons: because

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<sup>35</sup> Co. Ex. 2HC.

<sup>36</sup> Co. Ex. 2HC, Tr. p. 156, l. 14-18.

<sup>37</sup> Co. Ex. 2HC; Tr. p. 156, l. 22-24

<sup>38</sup> Co. Ex. 2HC; Tr. p. 157, l. 5-14.

<sup>39</sup> Co. Ex. 2HC; Tr. p. 156, l. 19-21.

<sup>40</sup> Co. Ex. 2HC, p. 1; Tr. p. 156, l. 25 through p. 157, l. 4.

<sup>41</sup> Co. Ex. 2HC, p. 1.

<sup>42</sup> Co. Ex. 2HC, p. 1, p. 4.

<sup>43</sup> Co. Ex. 2HC p.4.

<sup>44</sup> Co. Ex. 2HC, pp. 3, 6, 9 and 12.

<sup>45</sup> Staff Ex. 1HC, p. 9.

<sup>46</sup> Complaint, third unnumbered paragraph.

Mr. Mershon defaulted on a Cold Weather Rule payment agreement such that the remaining payment agreement amount was added back to his balance due,<sup>47</sup> because he failed to pay his bill in full for several months<sup>48</sup>, and because was dropped from budget billing due to carrying a past due balance, such that the budget bill balance behind amount that had been accruing was added to his balance due<sup>49</sup>. The accuracy of the billing is borne out by examining the bills, account records and payments for January through May of 2013.

In January of 2013, Mr. Mershon and the Company entered into a Cold Weather Rule payment agreement to pay an outstanding balance of \$\*\*\*.\*\*.<sup>50</sup> On January 22, 2013, the Company received a \$\*\*.\*\* payment on the account that was applied towards a prior balance of \$\*\*\*.\*\*, attributable to an energy grant that was pending but that had not yet been received.<sup>51</sup>

The Company sent Mr. Mershon a bill dated January 25, 2013, which reflected the \$\*\* payment received, included the \$\*\*\*.\*\* remainder (\$\*\*\*.\*\* less the \$\*\*.\*\* payment) of the pending energy grant amount as a prior balance due, included charges for electric utility service from December 20, 2012 to January 23, 2013 netted to a \$\*\*.\*\* budget bill amount, a monthly payment agreement amount of \$\*\*.\*\*, and other itemized charges, for a total of \$\*\*\*.\*\*, due February 6, 2013. A notice on the bill advised that failure to pay the bill in full could result in removal from budget billing.<sup>52</sup>

The Company received the \$\*\*\*.\*\* pledged amount on January 30.<sup>53</sup> Mr. Mershon failed to pay the remaining \$\*\*.\*\* due (\$\*\*\*.\*\* less \$\*\*\*.\*\*) by the date his February bill issued on February 25, 2013.<sup>54</sup> Setting aside the \$\*\*\*.\*\* prior balance that was netted out by a grant for that amount, another way to view the January billing is that Mr. Mershon was billed \$\*\*.\*\* (\$\*\*.\*\* for budget billing and \$\*\*.\*\* for the payment agreement installment), but only paid \$\*\*.\*\*. His failure to pay the remaining \$\*\*.\*\* caused his payment agreement to default, and his February bill so advised. Because the agreement defaulted, the balance on the payment agreement was added back to the prior balance. His February bill also included charges for

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<sup>47</sup> Tr. p. 154, l. 20 through p. 155, l. 7.

<sup>48</sup> Tr. p. 152, l. 22 through p. 153, l. 2.

<sup>49</sup> Tr. p. 153, l. 21 through p. 154, l. 8.

<sup>50</sup> Co. Ex. 1HC, *see* entry dated 01/11/2013.

<sup>51</sup> Co. Ex. 1HC, *see* entry dated 01/22/2013; and Co. Ex. 2HC, p.1.

<sup>52</sup> Co. Ex. 2HC, p.1.

<sup>53</sup> Co. Ex. 1HC, and *see* entry dated 01/30/2013.

<sup>54</sup> Co. Ex. 1HC, no payment reflected between 01/30/2013 and 03/07/2013.

electric utility service from January 23, 2013 to February 21, 2013 netted to the \$\*\*.\*\* budget bill amount, and late pay and other itemized charges, for a total of \$\*\*\*.\*\*, due March 7, 2013.<sup>55</sup>

The Company received a \$\*\*.\*\* payment on March 7, 2013 toward the \$\*\*\*.\*\* that was due that day.<sup>56</sup> The Company sent Mr. Mershon a bill dated March 26, 2013, which included a prior unpaid balance of \$\*\*\*.\*\* (\$\*\*\*.\*\* less the \$\*\*.\*\* payment), charges for electric utility service from February 21, 2013 to March 24, 2013 netted to the \$\*\*.\*\* budget bill amount, and late pay and other itemized charges, for a total of \$\*\*\*.\*\*, due April 8, 2013. The bill included a notice that failure to pay the balance in full would result in removal from budget billing.<sup>57</sup>

On April 8, 2013, the Company received a \$\*\*.\*\* payment toward the \$\*\*\*.\*\* that was due that day.<sup>58</sup> In April, the fourth month of Mr. Mershon's budget billing arrangement, the Company adjusted the budget billing amount, as permitted under its tariffs<sup>59</sup>, upward to \$\*\*.\*\*.<sup>60</sup> The Company sent Mr. Mershon a bill dated April 25, 2013, which included a prior unpaid balance of \$\*\*\*.\*\* (\$\*\*\*.\*\* less the \$\*\*.\*\* payment), charges for electric utility service from March 24, 2013 to April 23, 2013 netted to the new \$\*\*.\*\* budget bill amount, and late payment and other itemized charges, for a total of \$\*\*\*.\*\*, due May 7, 2013. The bill included a notice that failure to pay the balance in full would result in removal from budget billing.<sup>61</sup>

Each of the January, February, March and April bills sent to Mr. Mershon also included a bill supplement that advised Mr. Mershon of the exact amount (the "budget bill balance behind") by which the actual cost of his electric utility service each month was exceeding the monthly budget bill amounts billed to Mr. Mershon, with the result that by April 25, 2013, the difference was \$\*\*\*.\*\*.<sup>62</sup>

On May 20, 2013, the Company received a \$\*\*.\*\* payment toward the \$\*\*\*.\*\* that had been due on May 7, 2013.<sup>63</sup> In May 2013, because Mr. Mershon had carried a past due balance,

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<sup>55</sup> Co. Ex. 2HC, p. 4.

<sup>56</sup> Id.; Co. Ex. 1HC, and *see* entry dated 03/07/13.

<sup>57</sup> Co. Ex. 2HC, p. 7.

<sup>58</sup> Co. Ex. 1HC, *see* entry dated 04/08/2013.

<sup>59</sup> Union Electric Company Electric Service Tariff Sheet 135, General Rules and Regulations, V. Billing Practices, I. Budget Billing Plan, 5., "Company will adjust the average monthly billing during the fourth and eighth months preceding the annually recurring re-evaluation month under this Plan, if the recalculated Budget Billing Plan amount indicates an increase of \$3.00 or more. Company will not adjust the average billing in two consecutive months."

<sup>60</sup> Co. Ex. 1HC, *see* entry dated 4/24/2013

<sup>61</sup> Co. Ex. 2HC, p.10.

<sup>62</sup> Co. Ex. 2HC, pp. 3, 6, 9 and 12.

<sup>63</sup> Co. Ex. 1HC, *see* entry dated 05/20/2013.



his account was removed from budget billing.<sup>64</sup> The Company sent Mr. Mershon a bill dated May 24, 2013, which included a prior unpaid balance of \$\*\*\*.\*\* (\$\*\*\*.\*\* less the \$\*\*.\*\* payment), a budget adjustment charge of \$\*\*\*.\*\* (billing for the budget bill balance behind amount that had accrued), and late fees and other itemized charges, for a total of \$\*\*\*.\*\*, due June 6, 2013.<sup>65</sup>

**d. Whether the Company's disconnection notices to Mr. Mershon violate 4 CSR 240-13.050(1),(4),(5),(7) and (9).**

Mr. Mershon has expressed many criticisms about the disconnect notices he has received from the Company<sup>66</sup>, including: "Ameren Missouri threatens its customers through fear and intimidation. They provide disconnection notices on a monthly basis. They are not reminders"<sup>67</sup>, "[t]he company puts the fear of disconnection in order to get them to pay their bill on time. This treatment has been resonating for quite some time and the Commission refuses to put a halt to it[.]"<sup>68</sup> and "the company threatens its customers through fear and intimidation. They provide disconnection notices on a monthly basis. They are not reminders and they are frightening to many customers."<sup>69</sup> Although Mr. Mershon has not specifically alleged that the Company's disconnection notices violate a statute, rule, order or tariff, arguably, these allegations may constitute a complaint that the disconnection notices the Company utilizes somehow violate the Commission's discontinuance of service rules at 4 CSR 240-13.050(1), (4), (5),(7) and (9).

Although Mr. Mershon complains that the Company uses disconnection notices, "if payment is not made regardless of the economic status of the customer"<sup>70</sup>, and "threatens to disconnect those with disabilities...whenever they choose"<sup>71</sup> he has not offered any evidence to

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<sup>64</sup> Tr. p. 152., l. 22-p. 153, l. 8; *see also* Union Electric Company Electric Service Tariff Sheet 135, General Rules and Regulations, V. Billing Practices, I. Budget Billing Plan, 6., "Company may terminate this Budget Billing Plan to any customer who shall fail to make payment hereunder by the delinquent date, and, upon such termination and thereafter, such customer shall be billed in accordance with the terms of Company's standard monthly billing practice. Any billing adjustments required at the date of such termination shall be included in the next bill rendered to customer."

<sup>65</sup> Co. Ex. 2HC, p. 13.

<sup>66</sup> *See* Co. Ex. 3HC: at least 28 disconnect notices have been sent to Mr. Mershon since October 15, 2009.

<sup>67</sup> Petition, p. 2, para. 8.

<sup>68</sup> Petition, p. 5, para. 23.

<sup>69</sup> Petition, p. 7, para. 5.

<sup>70</sup> Petition, p. 2, para. 7

<sup>71</sup> Petition, p. 4, para. 17.

prove these allegations, nor has he explained how the Company's practice of sending a disconnect notice would violate a particular statute, rule, order or tariff, if a customer has not paid for his service. In contrast to Mr. Mershon's unsupported allegation that the Company disconnects "whenever it chooses," the Company's witness, Cathy Hart, testified that Company sometimes disconnects customers for non-payment of delinquent account balances, after following notice procedures that comply with the Commission's discontinuance of service rules.<sup>72</sup> The Company is expressly permitted (provided certain notices are sent and subject to certain exceptions under the Cold Weather Rule and Hot Weather Rule statute), under 4 CSR 240-13.050(1) to disconnect service for nonpayment, including (A) nonpayment of an undisputed delinquent charge and (D) failure to comply with the terms of a settlement agreement.

As to the form of the Company's disconnection notices, although Mr. Mershon insists "the company should have a better way of notifying customers that their accounts or[sic] delinquent rather than threatening and intimidating them[.]"<sup>73</sup> and "[t]he notices that are sent out to customers should be customer friendly rather than harsh and threatening[.]"<sup>74</sup> the testimony of the Company's witness, Cathy Hart, and the sample disconnection notices admitted into evidence as Ameren Missouri Exhibit 4, prove that the form of the Company's notices complies with the requirements of 4 CSR 240-13.050(4)(A)-(F): the name and address of the customer appears on the notice<sup>75</sup>; the reason for the proposed discontinuance, whether past due balance or deposit due, is stated (marked) in the notice<sup>76</sup>; the date on or after which service would be disconnected is stated<sup>77</sup>, how a customer could avoid the disconnection is stated<sup>78</sup>, the possibility of a settlement agreement (payment plan) is noted<sup>79</sup>, and the telephone number and address of the Company where a customer could make an inquiry without incurring a toll charge is shown.<sup>80</sup>

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<sup>72</sup> Tr. p. 141, l.7 through p. 142, l. 14.

<sup>73</sup> Petition, p. 8, para. 4.

<sup>74</sup> Petition, p. 9, para. 7.

<sup>75</sup> Tr. p. 146, l. 8-12.; p. 157, l. 19-25

<sup>76</sup> Tr. p. 158, l. 1-5; Co. Ex. 4.

<sup>77</sup> Tr. p. 158, l. 6-8; Co. Ex. 4.

<sup>78</sup> Tr. p. 158, l. 9-15; Co. Ex. 4

<sup>79</sup> Tr. p. 158, l. 15-19; Co. Ex. 4.

<sup>80</sup> Tr. p. 158, l. 20-24.

The evidence presented by the Company also proves that the Company complies with 4 CSR 240-13.050(5) and (7) with regard to the form and timing of service of notice. The Company sends two disconnect notices (its yellow notice and pink notice) in writing via first class mail<sup>81</sup>; the yellow notice is sent at least ten days prior to discontinuance, the pink is sent at least 24 hours prior to discontinuance, and the Company also makes an automated outbound call prior to discontinuance<sup>82</sup>.

The Company acknowledges that 4 CSR 240-13.050(5) does prohibits a utility from issuing a notice of discontinuance as to that portion of a bill determined to be an amount in dispute. As Ms. Hart testified, through an unintentional oversight, the Company failed to immediately suspend the \$\*\*\*.\*\* in dispute when the Complaint was filed on June 13, 2013 and as a result, erroneous disconnect notices were automatically mailed to Mr. Mershon on August 22, 2013 and August 27, 2013 which stated that if Mr. Mershon failed to pay \$\*\*\*.\*\* (the disputed \$\*\*\*.\*\* plus another \$\*\*.\*\* that was delinquent and *not* in dispute) his service would be disconnected for nonpayment.<sup>83</sup> As soon as the Company realized its error, the Company voided the disconnect notices and immediately suspended the \$\*\*\*.\*\* from collection activity, in compliance with the remainder of said subsection (5) which provides: “[if] the utility inadvertently issues the notice... the utility shall take necessary steps to withdraw or cancel [the] notice.”

### **III. Conclusion**

Although Mr. Mershon clearly does not care for the Company’s customer service protocols, bills, or disconnection notice forms, he is not entitled to any relief with regard to them, because the Company’s evidence has proved that they comply with the Commission’s applicable rules. So long as the Company performs its legal duty, complies with lawful regulation and does no harm to the public welfare, it has the right to conduct its business in the manner it chooses. *State ex rel. Harline v. Public Serv. Com’n*, 343 S.W.2d 177, 182 (Mo. App. 1960). He is also not entitled to any relief with respect to his complaint that the Company charges him too much for his residential electric utility service, because the Company has proved that it is charging him

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<sup>81</sup> Tr. p. 141, l. 20 through p. 142, l. 10; p. 158, l. 25 through p. 160, l.2.; Co. Ex. 4

<sup>82</sup> See, e.g., Co. Ex. 3HC, entries dated 01/24/14, 01/29/14, and 02/07/14, identifying notices given over a 14-day span.

<sup>83</sup> Tr. p. 159, l. 3 through p. 161, l. 3.

the rate it is required to charge for such service under its Commission-approved tariffs. Finally, Mr. Mershon is not entitled to any relief with respect to the \$\*\*\*\*.\*\* in dispute, because the Company proved that amount was properly charged and billed to him for electric utility service provided to him.

Because the evidence presented at the hearing demonstrates that Company has complied with all applicable rules and tariffs in its dealings with Mr. Mershon, the Commission should enter an order denying Mr. Mershon's Complaint on the merits.

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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Post-Hearing Brief was served on the following parties via electronic mail (e-mail) or regular mail on this 13<sup>th</sup> day of March, 2014.

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