

1 DEPARTMENT OF ECONOMIC DEVELOPMENT, PUBLIC SERVICE COMMISSION,
2 STATE OF MISSOURI
3

4 Louie S. Andrews and Amy R. Andrews,

5 Complainant,

6 Vs.

7 Union Electric Company,

8 Respondent.

) Case No.: EC - 2000-713

)
) Before the Department of Economic Development,
) Public Service Commission, State of Missouri

FILED

MAY 1 2000

Missouri Public
Service Commission

9
10 COMPLAINT

11 The Complainant resides and the pole barn in question is located at 1137 Highway 109,
12 Wildwood, Missouri 63038.

- 13 1. Respondent, Union Electric Company, 1901 Chouteau Ave., St Louis, Missouri 63103.
- 14 2. As the basis of this complaint, Complainant states the following facts:
- 15 a. The Respondent by RSMo is the only authority that can provide the service
- 16 necessary to bring electricity to the Complainant's pole barn.
- 17 b. That the pole barn has been without power for a period exceeding one year.
- 18 c. Power was requested for the pole barn from the Respondent at the beginning of April
- 19 1999.
- 20 d. The Respondent provided a job estimate that utilized a commercial, "full costing"
- 21 classification to the project totaling over \$11,000.
- 22 e. When the Complainant requested the details of the cost estimate from the
- 23 Respondent, the Respondent refused to disclose any further details of the job
- 24 estimate.
- 25 f. The Complainant enlisted the help of the local State Representative who after
- months of lengthy delays the Respondent finally disclosed labor costs in excess of

1 \$8000.00 for 55 hours of labor at a rate of \$148.00 per hour. Included in the rate is
2 over \$100.00 per hour of overhead expense.

3 g. The Respondent's overhead costing scheme is so fundamentally incorrect that even
4 if an appropriate classification could be utilized for this job, the Respondent would still
5 not be able to provide a true job cost.

6 h. The Respondent's costing system would not survive if it were not a monopoly
7 protected by law.

8 i. $\frac{3}{4}$ of the space in the pole barn is an extension of the Complainant's home including
9 a home workout area, gymnastics mats and equipment for the Complainant's
10 daughter, and residential garage space. $\frac{1}{4}$ of the space in the pole barn is for a
11 lathe, mill, and a three-phase welder.

12 j. The job requires the Respondent to extend four wires 118 feet, install a single electric
13 pole in the ground, and mount and wire three transformers.

14 3. The Complainant has taken the following steps to present this complaint to the Respondent:

15 a. The Complainant made six requests for detailed cost to the Respondent over a
16 period of eight months.

17 b. A meeting was arranged at the Respondent's Ellisville, Missouri office with the
18 costing engineer, his supervisor, and the manager of the district office with the
19 Complainant and the local State Representative to resolve the costing problem.

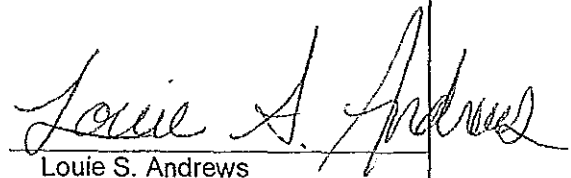
20 c. Jim Ketter, The Public Service Commission's staff engineer was enlisted to help
21 resolve the costing dispute. All resolutions proposed by the Public Service
22 Commission's Staff were rejected by Respondent.

23 4. Wherefore, Complainant now requests the following relief:

24 a. An expedited hearing before the Public Service Commission, State of Missouri to
25 resolve this matter.

- 1 b. The Respondent not be allowed to take advantage of its monopoly status by taking
2 advantage of its position as the sole provider of electricity to the Complainant.
3 c. The Public Service Commission order the Respondent to complete the job at a
4 reasonable and competitive price, plus or minus five percent of estimates given by
5 other power providers in this area (Quiver River Electric estimates this job to cost
6 under \$3000.00).
7 d. The Respondent expedite the installation of three-phase electric to the pole barn
8 located at Complainant's residence.
9 e. Public Service Commission creates new classifications for job costing between
10 residential and fully costed commercial jobs.
11 f. Review the Respondents application of overhead expense assigned to labor hours
12 so that the labor rate more closely tracks actual costs.
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14 Dated this 28th day of April, 2000.

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16 
17 Louie S. Andrews

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20 Amy R. Andrews
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Information Sheet Regarding Mediation of Commission Formal Complaint Cases

Mediation is process whereby the parties themselves work to resolve their dispute with the aid of a neutral third-party mediator. This process is sometimes referred to as "facilitated negotiation." The mediator's role is advisory and although the mediator may offer suggestions, the mediator has no authority to impose a solution nor will the mediator determine who "wins." Instead, the mediator simply works with both parties to facilitate communications and to attempt to enable the parties to reach an agreement which is mutually agreeable to both the complainant and the respondent.

The mediation process is explicitly a problem-solving one in which neither the parties nor the mediator are bound by the usual constraints such as the rules of evidence or the other formal procedures required in hearings before the Missouri Public Service Commission. Although many private mediators charge as much as \$250 per hour, the University of Missouri-Columbia School of Law has agreed to provide this service to parties who have formal complaints pending before the Public Service Commission at no charge. Not only is the service provided free of charge, but mediation is also less expensive than the formal complaint process because the assistance of an attorney is not necessary for mediation. In fact, the parties are encouraged not to bring an attorney to the mediation meeting.

The formal complaint process before the Commission invariably results in a determination by which there is a "winner" and a "loser" although the value of winning may well be offset by the cost of attorneys fees and the delays of protracted litigation. Mediation is not only a much quicker process but it also offers the unique opportunity for informal, direct communication between the two parties to the complaint and mediation is far more likely to result in a settlement which, because it was mutually agreed to, pleases both parties. This is traditionally referred to as "win-win" agreement.

The traditional mediator's role is to (1) help the participants understand the mediation process, (2) facilitate their ability to speak directly to each other, (3) maintain order, (4) clarify misunderstandings, (5) assist in identifying issues, (6) diffuse unrealistic expectations, (7) assist in translating one participant's perspective or proposal into a form that is more understandable and acceptable to the other participant, (8) assist the participants with the actual negotiation process, (9) occasionally a mediator may propose a possible solution, and (10) on rare occasions a mediator may encourage a participant to accept a particular solution. The mediator will not possess any specialized knowledge of the utility industry or of utility law.

In order for the Commission to refer a complaint case to mediation, the parties must both agree to mediate their conflict in good faith. The party filing the complaint must agree to appear and to make a good faith effort to mediate and the utility company against which the complaint has been filed must send a representative who has full authority to settle the complaint case. The essence of mediation stems from the fact that the participants are both genuinely interested in resolving the complaint.

Because mediation thrives in an atmosphere of free and open discussion, all settlement offers and other information which is revealed during mediation is shielded against subsequent disclosure in front of the Missouri Public Service Commission and is considered to be privileged information. The only information which must be disclosed to the Public Service Commission is (a) whether the case has been settled and (b) whether, irrespective of the outcome, the mediation effort was considered to be a worthwhile endeavor. The Commission will not ask what took place during the mediation.

If the dispute is settled at the mediation, the Commission will require a signed release from the complainant in order for the Commission to dismiss the formal complaint case.

If the dispute is not resolved through the mediation process, neither party will be prejudiced for having taken part in the mediation and, at that point, the formal complaint case will simply resume its normal course.



Date: January 25, 1999

Dale Hardy Roberts
Secretary of the Commission