

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

Tawanda Murphy,)	
)	
Complainant,)	
)	
v.)	<u>File No. EC-2010-0364</u>
)	
Union Electric Company, d/b/a)	
AmerenUE,)	
)	
Respondent.)	

STAFF RECOMMENDATION

COMES NOW, the Staff of the Missouri Public Service Commission (Staff), by and through Counsel, and for its *Staff Recommendation*, states as follows:

1. On June 14, 2010, Ms. Tawanda Murphy (Ms. Murphy or the Complainant), by and through counsel, filed a *Petition – Negligence Res Ipsa Loquitor (Petition)* with the Missouri Public Service Commission (the Commission) against Union Electric Company, d/b/a AmerenUE (AmerenUE or the Company). The *Petition* alleges that due to the Company’s negligence the Complainant’s real and personal property were damaged in an event that occurred on or about March 10, 2009.

2. On July 26, 2010, the Commission issued an *Order Resetting Deadline for Staff’s Investigation*, ordering Staff to file by August 23, 2010, the report of its investigation into “whether AmerenUE has violated any statute, regulation or tariff provision, the enforcement of which is under the jurisdiction of the Commission.”

3. Under the facts presented in this case, Staff is of the opinion that relevant portion of the Company’s tariff is found at Schedule No. 5, 7th Revised, Sheet 138 of the General Rules and Regulations (Part I – Section J). This section reads as follows:

Company will make all reasonable efforts to provide the service requested on an adequate and continuous basis, but will not be liable for service interruptions, deficiencies or imperfections which result from conditions which are beyond the reasonable control of the Company. The Company cannot guarantee the service as to continuity, freedom from voltage and frequency variations, reversal of phase rotation or singlephasing. The Company will not be responsible or liable for damages to customer's apparatus resulting from failure or imperfection of service beyond the reasonable control of the Company. In cases where such failure or imperfection of service might damage customer's apparatus, customer should install suitable protective equipment.

4. As indicated in the attached Memorandum, labeled Appendix A and incorporated by reference herein, Staff has investigated, to the extent possible, the allegations contained Ms. Murphy's *Petition*. Based upon this investigation, and as indicated in Appendix A, Staff states that "[w]hile it appears that both the Complainant and the Company agree that the fire occurred as a result of an energized neutral, there is apparently some disagreement as to why and/or how the neutral became energized." Reports prepared by the Complainant's insurance company conclude that the incident can be attributed to a failure on the Company portion of the system. AmerenUE, by and through a claims management agent, contends that trees located on private property are to blame.

5. In Staff's opinion, in this case, an energized neutral likely resulted from one of two possible sources: (1) failure of Ms. Murphy's distribution transformer, or (2) direct contact to the neutral wire itself. Information provided by the Company at the request of Staff indicates that the Company performed no maintenance on the relevant transformer and/or engaged in no vegetation management on the relevant portion of the system during the relevant time period. Based upon Staff's investigation, and as indicated in Appendix A, Staff concludes that "the apparent cause for the fire was an energized neutral that, based upon the information made available currently to Staff, was most likely damaged by a tree limb that fell onto a secondary

wire, and which would not have been trimmed by the Company as it lies on private property, is customer owned, and is therefore beyond the reasonable control of the Company.”

6. As indicated in Appendix A, based upon its investigation and analysis “...Staff is unable to definitively determine that the Company, in this Case, has violated this section of the tariff or any other portion thereof.”

7. AmerenUE is current on all assessment fees and annual report filings. Staff is not aware of any other matter before the Commission that affects or is affected by this filing.

WHEREFORE, based upon its investigation Staff recommends that the Commission dismiss the Complainant’s *Petition* or, in the alternative, set this matter for hearing in order to enable the Complainant to have the opportunity to present additional evidence of a violation of a statute, regulation, tariff, or Commission order.

Respectfully submitted,

/s/ Eric Dearmont

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 23rd day of August, 2010.

/s/ Eric Dearmont