

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 27th
day of July, 2011.

Jimmie E. Small,)
)
Complainant,)
)
v.)
)
Union Electric Company)
d/b/a Ameren Missouri)
)
Respondent.)

File No. EC-2011-0247

ORDER DISMISSING COMPLAINT WITHOUT PREJUDICE

Issue Date: July 27, 2011

Effective Date: August 7, 2011

The Missouri Public Service Commission is dismissing without prejudice the complaint of Jimmie E. Small for failure to comply with Commission orders.

Procedure

Mr. Small filed the complaint on February 24 alleging billing errors and seeking re-connection.¹ Union Electric Company d/b/a Ameren Missouri filed its answer on March 7. Staff filed its recommendation on March 18. On April 29, the Commission convened a pre-hearing conference on the complaint.

¹ All dates are in 2011.

Findings of Fact

1. On April 21, the Commission ordered the parties to file proposed procedural schedules no later than May 4, but Mr. Small did not comply with that order.

2. On May 13, Mr. Small filed copies of documents related to other actions including:

- a. Filings in a circuit court action against him for unlawful detainer,
- b. Correspondence in an action by him before the Missouri Commission on Human Rights, and
- c. A criminal complaint and search warrant application against him.

3. On May 16, 2011, the Commission ordered the parties to file lists of issues. Mr. Small's response was due on June 16, 2011. Mr. Small did not comply with that order.

4. On June 24, 2011, the Commission ordered Mr. Small to show cause why the Commission should not enter an order of dismissal against him for failure to comply with the Commission's orders dated April 21 and May 16. Mr. Small's response was due no later than July 5. Mr. Small did not comply with that order.

5. As of the date of this order, Mr. Small has not responded to the Commission's orders dated April 21, May 16, and June 24.

Conclusions of Law

The complaint initiated a contested case.² Therefore, disposing of this action requires separately stated findings on the factual matters determining such disposition.³ The Commission may dispose of this action without reaching the merits, for failure to comply with an order of the Commission as follows.

The Commission's regulations provide:

The commission, on its own motion . . . , may after notice dismiss a complaint for . . . failure to comply with . . . an order of the commission [;⁴]

and:

A party may be dismissed from a case for failure to comply with any order issued by the commission [.⁵]

The Commission's regulations also provide:

A case may be dismissed for good cause found by the commission after a minimum of ten (10) days notice to all parties involved. [⁶]

That regulation also applies because failure to comply with the Commission's order is good cause for dismissal. Good cause means reasonable relief.⁷ Reasonable relief includes dismissal without prejudice for repeated failure to comply with Commission orders.

For those reasons, the Commission will dismiss the complaint without prejudice.

² Sections 386.390.5, RSMo 2000 and 536.010(4), RSMo Supp. 2010.

³ Section 536.090.2, RSMo 2000.

⁴ 4 CSR 240-2.070(6).

⁵ 4 CSR 240-2.116(3).

⁶ 4 CSR 240-2.116(4).

⁷ *American Family Ins. Co. v. Hilden*, 936 S.W.2d 207, 210 (Mo. App., W.D. 1996).

THE COMMISSION ORDERS THAT:

1. The complaint is dismissed without prejudice.
2. This order shall be effective on August 7, 2011.
3. The Commission's Data Center shall close this file on August 8, 2011.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Gunn, Chm., Clayton, Davis, Jarrett,
and Kenney, CC., concur.

Jordan, Senior Regulatory Law Judge