

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

Eric E. Vickers, Personally and on Behalf of)
all Customers of Ameren Missouri Who Have)
Sought Relief under the Cold Weather Rule,)

Complainant,)

v.)

File No. EC-2011-0326

Union Electric d/b/a Ameren Missouri and)
Missouri Public Service Commission,)

Respondent.)

**ORDER DIRECTING COMPLIANCE WITH COMMISSION'S PRIOR
ORDERS AND DIRECTING COMPLAINANT TO FURTHER RESPOND
TO SHOW CAUSE ORDER**

Issue Date: June 14, 2011

Effective Date: June 14, 2011

Background

On April 4, 2011, Eric E. Vickers ("Complainant") filed a complaint against Union Electric d/b/a Ameren Missouri ("Ameren Missouri"). Also on April 4, 2011, the Commission ordered notice of this contested case and sent a copy of that order and a copy of the Commission's procedural rules to Complainant.

On May 4, 2011, Ameren Missouri filed its answer and a motion to dismiss. And, on May 13, 2011, the Commission's Staff filed a motion for an extension of time to file its investigation report and for an order compelling discovery. Staff provided documentation to support its position that it was unable to complete its investigation because Complainant had failed or refused to respond to Staff's data requests.

Staff's data requests were sent electronically to Complainant on April 27, 2011 making the twenty-day response deadline, as provided by Commission rule, May 16, 2011.

Staff also attempted to deliver the data requests by certified mail, and documents what appears to be Complainant's avoidance to view the e-mail request or accept delivery of the certified letter, asserting that Complainant knowingly and purposefully failed and refused to accept service of Staff's data requests.

On May 16, 2011, the Commission issued an order: (1) suspending the requirement for Staff to complete its investigation; (2) directing Complainant to comply with the Commission's discovery rules; (3) granting, *sua sponte*, an extension of time for Complainant to respond to Staff's data requests; (4) directing Complainant to reply to Ameren Missouri's answer; and (5) setting a procedural and discovery conference for May 31, 2011. The order also advised Complainant of the potential consequences for failure to comply with the Commission's rules and orders.

Complainant did not comply with the Commission's May 16, 2011 order. Complainant did not respond to Staff's data requests, even when given an extension of time *sua sponte* by the Commission. Complainant did not respond to Ameren Missouri's answer. Complainant did not appear at the procedural and discovery conference convened on May 31, 2011. Complainant did not seek a continuance of the conference or an extension of time for the ordered filings with the Commission. Consequently, on June 1, 2011 the Complainant was directed to show cause as to why this complaint should not be dismissed and sanctions imposed for violations of the Commission's rules and orders.

Complainant's Response to the Show Cause Order

On June 13, 2011, Complainant responded claiming he had not received the Commission's May 16, 2011 order until June 7, 2011, either electronically or by regular

mail. Complainant claims he did not receive the certified mail notice of that order from the United States Postal Service until June 3, 2011. Complainant further claims that on May 23, 2011, he electronically sent a request for an extension of time to respond to Ameren Missouri's motion to dismiss and Staff's discovery requests to counsel for Ameren Missouri and to the General Counsel of the Commission. Complainant states that he expected his "motion" to be granted and now references back to the May 23, 2011 request (a request that was not filed in this case) to request an extension of time until June 30, 2011 to provide the responses previously ordered.

Complainant's response to the Commission's Show Cause Order is inadequate. Consequently, the Commission will reserve its decision on whether to dismiss this action until the Complainant responds fully, and with particularity, to the inquiry directed in this order. Additionally, Complainant's request for an extension of time to respond is improper. Complainant did not file his alleged May 23, 2011 request in this case and did not give the Commission an opportunity to consider it. Complainant's current request, referencing back to the prior unmade request, is out of time, as was the original request that was supposedly served on the Ameren Missouri and the General Counsel. Furthermore, Complainant provides no reason for the requested extensions.

The original request for an extension that Complainant claims to have made on May 23, 2011 was seven days beyond the deadline to respond to Staff's data requests, and there is no indication that any request was made for leave to late file for the extension of time. And as previously noted, the request was not filed with the Commission. Moreover, Complainant claims that in his May 23, 2011 "motion" he also requested an extension of time to respond to Ameren Missouri's motion to dismiss. But the Commission ordered no

responses until May 16, 2011 order; an order Complainant now claims he did not receive until June 7, 2011.

Decision

The proper procedure for Complainant to follow under these circumstances is to seek leave to late file the request for an extension of time. Because Complainant has not sought leave to late file either of his overdue requests for an extension, the Commission will not grant Complainant's current improperly filed request for an extension of time. However, in the interest of administrative economy, and in the interest of providing an abundance of process, the Commission will give Complainant an additional opportunity to comply with its prior orders and will set the deadline for that compliance to coincide with the deadline for Complainant to further respond to the Commission's Show Cause Order.

THE COMMISSION ORDERS THAT:

1. Complainant's improperly filed request for an extension of time is denied.
2. Complainant will comply with the Commission's May 16, 2011 order and respond to Staff's data requests and file a response to Ameren Missouri's motion to dismiss no later than July 1, 2011.
3. Complainant will further respond to the Commission's June 1, 2011 Show Cause Order by responding fully, and with particularity, to the following inquiries:
 - a. If Complainant is an attorney, he shall affirmatively so state and provide the Commission with his Missouri Bar number and the Bar number for any other jurisdiction in which he has been authorized to practice law.
 - b. The Commission's Electronic Information and Filing System ("EFIS") provides an e-mail notification to all parties on the certified service list each time a filing is made in the file number for this matter. Complainant will confirm whether he is receiving the e-mail notifications of these filings.

- c. Complainant will confirm whether he received a copy of the Commission's April 4, 2011 "Order Giving Notice of Contested Case, Directing Answer and Directing Staff Investigation" that included a copy of the Commission's procedural rules.
 - d. Complainant will confirm whether he received a copy of the Commission's April 25, 2011 "Notice Regarding Case Filings."
4. Complainant will respond to the inquires in paragraph 3 no later than July 1, 2011.
5. In addition to the e-mail notification provided with this order, the Commission's Data Center shall send a copy of this order to the Complainant by regular mail and by UPS "Next Day Air" and file the tracking information from the UPS delivery in this file.
6. This order shall become effective immediately upon issuance.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Harold Stearley, Senior Regulatory Law Judge
by delegation of authority pursuant to
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 14th day of June, 2011.