

Jimmie E. Small,
Complainant,
v.
Ameren Missouri, et. al.,
Respondents.

On March 14, 2012, the Commission issued an *Order Denying Motion for Reconsideration and Amending Procedural Schedule*, which denied Mr. Small request for a default judgment and sanctions based on allegations that there were improper ex parte communications between Ameren Missouri and the Commission's Chairman. The

hearing scheduled for June 13, 2012 was postponed indefinitely at Mr. Small's request due to "persistent health conditions".

On October 25, 2012, Mr. Small filed a *Motion for Order*, which requested that the Commission grant summary determination based on the same allegations of improper ex parte communications and made specific allegations that Ameren Missouri disconnected his utility service in 2008 in violation of Commission Rule 4 CSR 240-13.055 (the "Cold Weather Rule").

Mr. Small's request for summary determination raises the same allegations of improper ex parte communications that the Commission has already denied in its order of March 14, 2012. The Commission considers Mr. Small's request to be a motion for reconsideration of that previous order. However, the request is without merit as discussed in the previous order, and the motion was not filed within ten days of the date the order was issued, as required by Commission Rule 4 CSR 240-2.160(2). Consequently, the Commission will deny that request.

Mr. Small also raises for the first time the allegation that his electric service at 23067 Potter Trail, Kirksville, Missouri was disconnected in 2008 in violation of the Cold Weather Rule. The Commission determines that Mr. Small is making a motion to amend his complaint to identify a specific Commission rule that was violated by disconnecting his electric service. Trial courts in Missouri have broad discretion to permit amendments to pleadings when justice so requires.¹ While the Commission's procedural rules do not expressly provide for amendment of a complaint, Commission

¹ *Hoover v. Brundage-Bone Concrete Pumping, Inc.*, 193 S.W.3d 867, 870-71 (Mo. Ct. App. 2006); Mo. Sup. Ct. R. 55.33(a).

Rule 4 CSR 240-2.015 permits the Commission to waive procedural rules for good cause. Since Mr. Small is not represented by legal counsel in this matter, the Commission will grant his request to amend the complaint and provide Ameren Missouri an opportunity to respond to these more specific allegations.

In previous pleadings, Mr. Small has not identified a specific law, rule or tariff that Ameren Missouri allegedly violated while disconnecting his electric service in Kirksville, Missouri. Now that Mr. Small has supplied the Commission with a rule that Ameren Missouri allegedly violated, the issues for the hearing will be amended accordingly. The Commission determines that the amended issues for this hearing are the following:

1. Did Ameren Missouri violate Commission Rule 4 CSR 240-13.055, the Cold Weather Rule, during 2006-2008 when it disconnected electric service at Mr. Small's property in Kirksville, Missouri?
2. Did Ameren Missouri falsify documentation of Mr. Small's electric service account records?

The Commission will not permit evidence or argument at the hearing relating to any other claims or theories of recovery other than the two issues stated above, unless Mr. Small has requested leave to amend his complaint again prior to February 1, 2013 and the Commission has granted the proposed amendment.

The Commission will amend the procedural schedule by setting a new hearing date and briefing schedule. All other provisions of the previous procedural schedule remain in effect.

THE COMMISSION ORDERS THAT:

1. Jimmie E. Small's motion for reconsideration of the Commission's previous order denying a default judgment and sanctions based on allegations of improper ex parte communications is denied.

2. Jimmie E. Small's motion to amend the complaint is granted. Any further requests to amend the complaint shall be filed no later than February 1, 2013.

3. Ameren Missouri shall file a response to the amended allegations in the complaint as described in the body of this order no later than November 28, 2012, and serve a copy upon the Complainant.

4. An evidentiary hearing is scheduled for March 12, 2013, beginning at 9:30 a.m. The hearing will be held in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. Any request to reschedule the hearing date shall be filed no later than December 1, 2012.

5. The hearing will be held in a building that meets accessibility standards required by the Americans with Disabilities Act. Any person requiring additional accommodations to participate in the hearing shall call the Missouri Public Service Commission's Hotline at 800-392-4211 (voice) or Relay Missouri at 711 before the hearing.

6. The procedural schedule is amended, as follows:

Evidentiary Hearing	-	March 12, 2013 beginning at 9:30 a.m.
Transcript available	-	March 15, 2013
Simultaneous Post-Hearing Briefs	-	April 4, 2013 (at option of parties)

7. All requests for a subpoena for a witness or production of documents must be filed in writing with the Commission at least 20 days prior to the hearing. Subpoena requests may be granted only by Michael Bushmann, the Regulatory Law Judge currently assigned to this matter. No subpoena will be issued unless the requesting party can demonstrate to the Regulatory Law Judge that the witness or document requested is relevant to the two issues stated above and, in the case of a witness subpoena, that the proposed witness has refused to testify voluntarily.

8. This order is effective immediately upon issuance.

BY THE COMMISSION



Steven C. Reed
Secretary

(S E A L)

Michael Bushmann, Regulatory Law
Judge, by delegation of authority pursuant
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,
on this 29th day of October, 2012.