

Gina M. Lawrence,)	
)	
Complainant,)	
)	
vs.)	File No. EC-2014-0299
)	
Ozark Electric Cooperative, Inc.)	
)	
Respondent.)	

Issue Date: April 23, 2014 Effective Date: April 23, 2014

The complaint¹ seeks an order requiring Ozark Electric Cooperative, Inc. (“Ozark”) to replace her “smart, advanced or digital meter” with an “analog meter.” The Commission cannot order that relief because the Commission’s power—subject matter jurisdiction²—over a cooperative is expressly limited by law:

Replacement of a meter is a service matter within the cooperative's management, which places it outside the Commission's authority. The Commission has authority over safe

² Missouri recognizes two types of jurisdiction: personal jurisdiction, which is not at issue, and subject matter jurisdiction, which is the authority to order relief. *J.C.W. ex rel. Webb v. Wyciskalla*, 275 S.W.3d 249, 252-54 (Mo. banc 2009).

³ Section 393.160.1, RSMo 2000.

operation of equipment, but the complaint does not seek safe operation of the meter, it seeks replacement of the meter with a different technology, which the Commission cannot grant.

Also, any relief ordered upon a complaint must stand on a violation of laws committed to the Commission's enforcement:

Complaint may be made by . . . any . . . person . . . , by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any corporation, person or public utility . . . in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission [. ⁴]

The complaint does not cite any rule or order or decision of the commission, or any provision of law that the Commission can enforce against Ozark, so it does not state a claim for relief from the Commission.

Therefore, even assuming that everything in the complaint is true, the complaint claims no relief that the Commission can grant. If a complaint does not state a claim on which the Commission can grant relief, the Commission's regulations provide:

The commission, on its own motion . . . may after notice dismiss a complaint for failure to state a claim on which relief may be granted [. ⁵]

When an agency lacks jurisdiction, it can only exercise its inherent power to dismiss matters outside its authority. ⁶

Before the Commission dismisses the complaint, it will consider a response to this order showing cause why the Commission should not dismiss the complaint.

⁴ Section 386.390.1, RSMo 2000.

⁵ 4 CSR 240-2.070(7).

⁶ Oberreiter v. Fullbright Trucking, 24 S.W.3d 727, 729 (Mo. App., E.D. 2000) (citations omitted).

THE COMMISSION ORDERS THAT:

1. No later than May 5, 2014, Gina M. Lawrence shall file a response to this order showing why the Commission should not dismiss the complaint for failure to state a claim on which relief can be granted.

2. This order is effective immediately upon issuance.

BY THE COMMISSION



A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

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

Dated at Jefferson City, Missouri,
on this 23rd day of April, 2014.