

Public Counsel
JES.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

DEC 8 1 2014

Jimmie E. Small,

Complainant,

Vs.

Union Electric Company, d/b/a
Ameren Missouri,

Respondent.

Missouri Public
Service Commission

Case No. EC-2015-0058

4 CSR 240-2.110(2) (A)
presiding officer may order continuance
COMPLAINANT'S MOTION FOR EXTENSION OF TIME TO RESPOND
TO AMEREN COMPANY'S 12/22/2014 RESPONSE FILING

COMES NOW the Complainant, pro se in the above captioned matter and for a reasonable extension of time of 20 days to reply, states unto the Hon. Commission the following particulars;

1. Utility Company previously requested and was granted an extension of time to respond to CP Motion for Summary Determination.

MATTERS INCORPORATED HEREIN

2. To the extent that Ameren Company takes the position that no evidence exist in support of a Commission ruling to grant Small's Summary Determination, All Commission Prior Reports, Orders, recommendations, data Center records, Evidence Transcripts, Exhibits, filed by Respondent Ameren Company, and Complainant Small are incorporated herein as if

fully set out in its entirety so as to avoid duplication of Commission agency records. No. EC-2015-0058; No. EC-2011; No. EC- 2012-0050 closed.

3. 4 CSR 240-2-110(3) provides, [“ When pending actions involve related questions of law or fact, the Commission may order a joint hearing of any or all the matters at issue, and may make other orders concerning cases before it to avoid unnecessary costs or delay. Small’s dispute over the alleged debt 2007 filed in 2010 will be 5 years old in 2015 and continuing unresolved.
4. 4 CSR 240-2.110(7) provides; [“ Suggested corrections to the transcript of record shall be offered within 10 days after the transcript is filed, except for good cause shown. The suggestions shall be in writing and shall be filed in the official Commission file. Objections to proposed corrections shall be made in writing within (10) days after the filing of the suggestions. The Commission shall determine what changes, if any shall be made in the record after a review of the suggested corrections and any objections.”]
5. In addition to not receiving Company’s 12/22/2014 response and Certificate of Service, [until 12/29/2014] the Company has failed to file in the Commission Data Center within 10 days of the latest Evidence Transcript written request to change S. Biboney testimony as to the MONEY Collection claim/issues. \$846.15 money dollars due in Cause No. EC-2015-0058 would appear to violate well established rules of the Commission Administrative agency. See, State ex rel Missouri Public Defender Com’n v. Pratte, 298 S.W. 3d 870 (2009). A ruling by the Mo. Pub. Serv Com’n permitting the Utility Company to circumvent 4 CSR 240-2.110(7) some 7-8 years following the Company’s known Written Suggestions requirement for suggested corrections appears to violate the Commission rules on or about 12/22/2014 when considering the inconsistent statement of Counsel S. Giboney.

6. The alleged Debt account going back to 2007 electric service as shown by Company Exhibit "A" [s/s Cathy Hart] was offered by Commission Staff report and recommendation at the convenience of Ameren Missouri Company, well after the (10) day rule applicable to Suggested Correction. See Rules CSR 240-2.110(7). If the Commission officials wait another year or so claimant expects that the Federal District Court will assume subject Matter Jurisdiction over a declaratory judgment complaint and the Federal Debt Collection Act issues will finally be resolved where the Commission Staff and others have failed over a period of years and continuing in 2015. Debt Collection issues the Commission Staff and other fail to timely address in a well contested case over 4 years ongoing.
7. On 12/29/2014 pro se complainant was informed for the first time that Respondent Ameren Company caused to be filed its response to CP Small's Motion for Summary Determination, as per a Commission prior suggestion and order for disposition. No EC-2015-0058.
8. CP Small has not previously requested an extension of time to respond to the Company's 12/22/2014 irregular filing matted with inconsistent factual statement in a defensive manner and to inappropriately influence a decision by the full Commission. See Rule 4 CSR 240-2.110(7).
9. A reasonable extension is also needed by the pro se to permit sanctions request against the Utility Company for its conduct in filing inconsistent material statement and while acting in concert with Staff Counsel investigators, Gay Fred, and other Staff personnel, as a continuing policy, practice and custom of wrongdoing over a period of years and continuing under the jurisdiction of the Missouri Public Service Commission, an Agency of Missouri State Government , further bound by the U.S.C.A. Const Amend 14. If it is all feasible to do so, statutes must be interpreted to

be consistent with the Missouri and Federal constitutions,” State v. Stokely, 842 S.W. 2d 77, 79 (1992).

10. Complainant did not receive (a) Certificate of service in context to Company’s 12/22/2014 response and attachments, as mandated by Commission mandatory rules. That the facts states in paragraph (10) appears to be a repeated practice by the Company in addition to Materially false statements used by the Company agent Cathy Hart, and others.
11. At page 1, paragraph four (4) [response] Utility Company counsel attempts to create a genuine issue of material fact by distinguishing the term “Turned Over” Account debt to a Collection agency but then admits the Company “Assigned” the right to collect a debt [2008] to a collection agency. [St Louis, Mo.]
12. At page three (3) paragraph (19)[response] Company admits [“ The Company admits that there is a dispute between Complainant and the Company over the money Complainant owes the Company and that the dispute continues.”]
13. That the Company’s defensive position documented at paragraph (19) Response, (a) Was well known to company in context to “Money” alleged to have originated from an illegal reconnection claim, back in 2007 time period and appears of record in the Commission Staff reports since 2010 contested case proceeding. (b) The exact same Money due issue was well known to Company agent Ms. S. Giboney when responding to an evidence hearing conducted by Hon. ALJ Bushmann in context to the exact same parties,; Exact same account located at # 23 Lake Road Village, 23067 Potter Trail Kirksville, Missouri, Exact same Evertt LaCost Owned Trailer park in 2007 and continuing unresolved, Exact same contested debt issue as previously litigated in prior proceeding before the Hon. Public Service

Commission. Accordingly, Administrative estoppels, Judicial estoppels, Collateral estoppels, Issue preclusion, res judicata, and Missouri and Federal debt collection Act statutes apply in cause No. EC-2015-0058. The Company at paragraph 19 [response] also appears to suggest that Summary determination rules and regulations applies in the present contested case but Missouri and Federal debt collection statutes exempt the Utility Company from the same statutes which were adopted by the great state of Missouri.

MONEY

14. During the evidence hearing transcript Case No EC-2012-0050, Hon. Judge Bushmann questioned Ms. S. Giboney, when suggestions of fraud, extortion and retaliation were addressed, Ms. S. Giboney defensively stated that Ameren Missouri is not trying to collect “MONEY” from Complainant Small owing to the exact same account involved in Cause No. EC-2015-0058. Equitable Estoppel is available in an action at law and will be applied in courts of law as well as those in equity. Sidney Weber, Inc., v. Interstate Motor Freight System, Mo. App. 205 S.W. 2d 291 Section 509.090, R.S. Mo. 1959, V.A.M.S.
15. After CP requested re-connection in late 2014, at page 4. Paragraph 22 the Company admits the following facts, [” The Company admits that it has not mailed Complainant another bill for the \$846.15 he owes the Company. The Company admits that it did not enter into a cold weather agreement on August 29, 2014, when Complainant applied for service. The Company is without sufficient information to admit or deny whether “ the female who escorted Small to Ameren [Missouri’] door had time to discuss cold weather agreements.
16. The equal protection principles if Small understands correctly are not limited to statutes as Counsel Giboney and Matthew R. Tomc, suggest in its

response. [12/22/2014] See, e.g. Keys v. School District No. 1, 413 U.S. 189, 201, 93 S. Ct. 2686, 37 L. Ed 2d 548 (9173); Foster v. Sparks, 506 F. 2d 805 (5th Cir. 1975) ; Gates v. Collier, 501 F. 2d 1291 (5th Cir. 1974); United Farmworkers of Florida Housing Project, Inc., v. City of Delray Beach, 493 F. 2d 799. (5th Cir. 1974).

FEDERAL DEBT COLLECTION LAWS

17. The Federal Debt Collection Act also prohibits coercion, threats, intimidation against a person, who opposes a debt collector, well after the federal statute of limitations has ran on an alleged debt. See Hunter v. Underwood, 362 F. 3d 468
18. Company's 12/22/2014 response fails to state with specificity or particularity exactly what rule, tariff, regulation, statute or case authority holds to exempt Union Electric Company, a private corporation from Missouri and Federal Debt Collection Act laws.
19. Complainant Small also respectfully request addition 20 days time in which to file state and federal actions in regards to declaratory judgment actions to resolve the negative and positive Company acts of claiming that \$ 846.15 remains due on account going back in time to 2007 time period as reflected numerous times in Commission Staff Reports and recommendations spanning some 5 years following the 2010 informal complaint process and continuing in 2015 Cause No. 2015-0058.
20. The materially inconsistent Company statements has further resulted in over 350 Staff hours of investigation and report recommendations over the exact same alleged \$846.15 alleged debt figure 2007 time period and continuing some 8 years following 2007 account billing time frame.

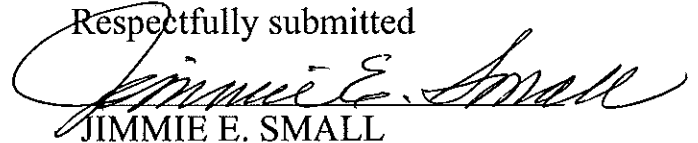
LAW OF THE CASE DOCTRINE

21. The Doctrine of the law of the case applies to decision of a coordinate court in the same case as much as to a court's own decision. Christianson v. Colt Operating Corp. 108 S.Ct. 2166, 486 U.S. 100 L. Ed 2d 811, on remand 80 F2d 1292, certiorari denied 110 S. Ct. 81, 593 U.S. 822, 107 L Ed 2d 47, on remand 766 F. Supp. 760. Law of the case doctrine applies not only to previous decisions of same court, but also to prior determinations of coordinate court. Donohoe v. Consolidated Operating & Engineering Corp., 30 F. 3d 907 Equitable Estoppel in pias “ stands simply on a rule of law which forecloses one from denying his own expressed or implied admission which has in good faith and in pursuance of its purpose been accepted and acted upon by another”. Emery v. Brown Shoe Company, Mo. 287 S.W. 2d 761.
22. At page 3, Part C of the unopposed Order, the Commission found in part, [“ Ameren’s theory also appears apt for resolution by documentary evidence, and without personal appearance, under motions for summary determination. Once again Small agrees with the Commission Order that no genuine issue exist as to the alleged account debt in any amount including \$ 846.15 as per the transcript Admission by Counsel S. Giboney .
23. 4 CSR 240-2.115 Stipulations and agreements. 2.115(1)(B) provides, [“ The Commission may resolve all or any part of a contested case on the basis of a stipulation and agreement.”]
24. That unless Cp Small missed the intent and purpose of the evidence transcript preserved by Hon. ALJ Bushmann when the Company counsel admitted that Ameren Missouri Company was not trying to collect any MONEY from complainant Small and no party objected to said admission,

law of the case may well be predicated upon said transcript now before the Hon. ALJ Jordan.

WHEREFORE, the Complainant prays the order of the commission granting such continuance or other relief the Hon. Commission find appropriate in the above given premises.

Respectfully submitted

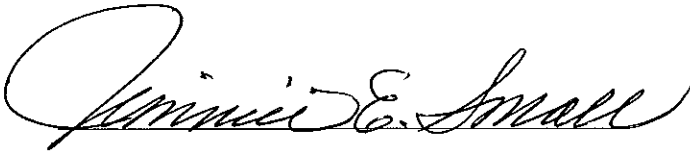


JIMMIE E. SMALL

606 West Hwy # 2
Milton, Iowa, 52570

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing motion for extension of time, was served on the Commission data center, Office of Public Counsel, Mr. Matthew R. Tomc. Corporate counsel, for Company, P.O. B. ^{KTS} 66149, St Louis, Mo. 63166-6149, all done this Wednesday, December 31, 2014.



JIMMIE E. SMALL

Before the public Service Comm'n
of the State of Missouri

Jimmie E. Small)
Complainant)

v.

) Case No. EC-2015-
) 0058

Union Electric d/b/a)
Ameren Missouri)
Respondent)

Complainant's Motion to strike
Respondent's alleged debt due
dated September 08, 2014, Exhibit
"A" NO:

1. Schedule F Reverse side of
Schedule 6, Exhibit A, dated
September 08, 2014 appears as
evidence in a prior proceeding
Case No: EC-2012-0050

P-1- 2. That the alleged debt due,
prior informal complaint
(C 201104337) details, Appendix A
in the alleged. Amount of \$846.15
is the exact same dispute in

NO: EC-2011-0247; EC-2012-0050
and continuing in NO: EC-2015-
0058.

3. The Commission should strike
utilities Exhibit "A" alleged bill
content, dated September 08, 2014,
as that alleged debt due issue
has been previously litigated
before Hon. ALJ Rushmann,
on Transcript recording,
admission by S. Gibney to the
effect that back in NO: EC-2012-0050,
utility, Ameren Missouri was
not trying to collect money
from customer, Jim Small.

4. Based on the stated admission
by Counsel Gibney, Transcript
evidence, NO: EC-2012-0050,
NO money was due on account
NO: 34433-07018 when that
dispute / contested claim was
previously tried. See 4 CSR-
240-13.050 (1).

5. Contested case NO: EC-2011-0247;
NO: EC-2012-0050; And NO: EC-2015-
0058 based on the record involved)

A disputed, alleged electric bill, situated at Lot #23, 23067 patten trail, Haverhill, Mo. was a valid dispute under

4 CSR 240-2.070(4)

7. Formal Complaint, Motion to strike the alleged debt of \$846.15 should be granted in NO: EC-2015-0058 as the Respondent's utility continued to use Mo. public service commission, (State Attorney staff - Carol Gay Fred and Mr. Alexander Antal to violate privacy Act laws through circulation of HC documents and did so while acting in concert with Respondent Counsel S. Siboney and W. Tatro. These admitted facts would appear as sufficient and substantial evidence to conclude that filed tariff agreements, rules and regulations have been violated and continuing in NO: EC-2015-0058. See 4 CSR 240-2.070(4) Formal Complaint

P-3-

DPAC ENLPS

8. The presiding ALJ Jordan should enter an appropriate commission Order striking Respondent's Exhibit "A" Content, based on collateral estoppel, issue preclusion and res judicata, where Utility Respondent, Ameren Missouri, had a full, fair, opportunity to litigate any disputed electric bill issues before the prior ALJ Hon Bushmann back in No. EC-2012-0050.

wherefore, the undersigned complainant prays the comm'd ALJ enter an appropriate Order striking the alleged past due account debt of \$846.¹⁵, And enter such further Order as seems proper disposition the Hon Jordan Court deem fair in the above given premises.

Respectfully Submitted
Frank E. Small
606 West Hwy #2
Milton, IA 52570.

Certificate of Service

I hereby certify that copies of the foregoing motion to strike/summary disposition as to alleged debts due, have been mailed to Counsel

S. Giboney, Calvernia, Mo. office, also to Data Center, Mo. pub. Serv. Comm'n And Copy to public Counsel, all done this Friday, October 24, 2014.

Jimmie E. Small

JIMMIE E. SMALL

606 West Hwy #2

MILTON, IO WA, 52570

EXHIBIT A

September 8, 2014

Mr. Jim E. Small
606 West Highway 2
Milton, Iowa 52570

Account Number: 34433-07018

Dear Mr. Small:

I received a message, along with your telephone number, from our Kirksville District stating you are interested in getting service reconnected to a trailer located at 23 Lakeroad Court, Kirksville, Missouri. I attempted to call you on September 2, 2014 to discuss what needs to occur before we can provide service to you at this address but received no answer so I left a message, along with my telephone number, for you to contact me.

To date, I have not heard from you. Wanting to relay the requirements necessary to restore service at the Lakeroad Court address, I am writing this letter instead of attempting to call you again.

You have a past due bill with Ameren Missouri for \$846.15. We require 80% of that amount to reconnect so you will need to pay \$676.92.

After checking with the City of Kirksville, I learned your residence is not in city limits so no inspection is necessary through the City. Once you have made your payment, please call our contact center at 1-800-552-7583 to give our Customer Care Advisor the receipt number in order that we may place a request to have a meter set for you. After the meter set order is requested through Ameren, it takes 1-3 business days to process and to get your meter set. Our troubleman will come to your location to set the meter. If there are no problems setting the meter you will have service within that time frame.

If you have questions please give me a call at 1-800-552-7583, ext. 17216. Thank You.

Sincerely,

Cathy Hart
Regulatory Liaison
Ameren Missouri
1-800-552-7583, ext. 17216

cc: Justin Edwards, Consumer Services Coordinator, Missouri Public Service Commission
23 Lakeroad Ct, Kirksville, Missouri 63501

HC
Schedule



(8) Except when authorized by an order of the commission, the commission will not entertain any discovery motions, until the following requirements have been satisfied:

(A) Counsel for the moving party has in good faith conferred or attempted to confer by telephone or in person with opposing counsel concerning the matter prior to the filing of the motion. Merely writing a demand letter is not sufficient. Counsel for the moving party shall certify compliance with this rule in any discovery motion; and

(B) If the issues remain unresolved after the attorneys have conferred in person or by telephone, counsel shall arrange with the commission for an immediate telephone conference with the presiding officer and opposing counsel. No written discovery motion shall be filed until this telephone conference has been held.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Amended: Filed June 9, 1987, effective Nov. 12, 1987. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-2.100 Subpoenas

PURPOSE: The commission may issue subpoenas for the production of witnesses and records. This rule prescribes the procedures for requesting and issuing subpoenas.

(1) A request for a subpoena or a subpoena *duces tecum* requiring a person to appear and testify at the taking of a deposition or at a hearing, or for production of documents or records shall be filed on the form provided by the commission and shall be directed to the secretary of the commission. A request for a subpoena *duces tecum* shall specify the particular document or record to be produced, and shall state the reasons why the production is believed to be material and relevant.

(2) Except for a showing of good cause, a subpoena or subpoena *duces tecum* shall not be issued fewer than twenty (20) days before a hearing.

(3) Objections to a subpoena or subpoena *duces tecum* or motions to quash a subpoena or subpoena *duces tecum* shall be made with-

in ten (10) days from the date the subpoena or subpoena *duces tecum* is served.

(4) Subpoenas or subpoenas *duces tecum* shall be signed and issued by the secretary of the commission, a commissioner or by a law judge pursuant to statutory delegation authority. The name and address of the witness shall be inserted in the original subpoena or subpoena *duces tecum* and a copy of the return shall be filed with the secretary of the commission. Subpoenas or subpoenas *duces tecum* shall show at whose instance the subpoena or subpoena *duces tecum* is issued. Blank subpoenas shall not be issued.

(5) If there is a failure to comply with a subpoena or a subpoena *duces tecum* after objections or a motion to quash have been determined by the commission, the commission by its counsel or the party seeking enforcement may apply to a judge of the circuit court of the county in which—the hearing has been held, is being held, or is scheduled to be held, or where the witness resides or may be found—for an order enforcing the subpoena or subpoena *duces tecum*.

AUTHORITY: section 386.410, RSMo Supp. 1998. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed Nov. 7, 1984, effective June 15, 1985. Rescinded and readopted: Filed March 10, 1995, effective Nov. 30, 1995. Rescinded and readopted: Filed Aug. 24, 1999, effective April 30, 2000.*

**Original authority: 386.410, RSMo 1939 amended 1947, 1977, 1996.*

4 CSR 240-2.110 Hearings

PURPOSE: This rule prescribes the procedures for the setting, notices, and conduct of hearings.

(1) The commission shall set the time and place for all hearings and serve notice as required by law. Additional notice may be served when the commission deems it to be appropriate.

(2) The presiding officer may order continuance of a hearing date for good cause.

(A) When a continuance has been granted at the request of the applicant or complainant, the commission may dismiss the case for failure to prosecute if it has not received a request from the applicant or complainant that the matter be again continued or set for hearing within ninety (90) days from the date of the order granting the continuance.

(B) Failure to appear at a hearing without previously having secured a continuance shall constitute grounds for dismissal of the party or the party's complaint, application or other action unless good cause for the failure to appear is shown.

(3) When pending actions involve related questions of law or fact, the commission may order a joint hearing of any or all the matters at issue, and may make other orders concerning cases before it to avoid unnecessary costs or delay.

(4) The presiding officer shall establish a procedural schedule through one (1) or more procedural orders in which the hearing and conference dates are set, date for filing testimony and pleadings are set, and any other applicable procedural parameters are established as determined necessary by the presiding officer or agreed to by the parties.

(5) The order of procedure in hearings shall be as follows, unless otherwise agreed to by the parties or ordered by the presiding officer:

(A) In all cases except investigation cases, the applicant or complainant shall open and close, with intervenors following the staff counsel, or his designee, and the public counsel in introducing evidence; and

(B) In investigation cases, the staff counsel, or his designee, shall open and close.

(6) A reporter appointed by the commission shall make a full and complete record of the entire proceeding in any formal hearing, or of any other hearing or proceeding at which the commission determines reporting is appropriate.

(7) Suggested corrections to the transcript of record shall be offered within ten (10) days after the transcript is filed, except for good cause shown. The suggestions shall be in writing and shall be filed in the official commission file. Objections to proposed corrections shall be made in writing within ten (10) days after the filing of the suggestions. The commission shall determine what changes, if any, shall be made in the record after a review of the suggested corrections and any objections.

(8) A party may request that the commission reopen the record for the taking of additional evidence if the request is made after the hearing has been concluded, but before briefs have been filed or oral argument presented, or before a decision has been issued in the absence of briefs or argument. Such a request shall be made by filing a motion to reopen the