

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 10th day of
April, 2015.

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

File No. EC-2015-0058

ORDER DENYING RECONSIDERATION

Issue Date: April 10, 2015

Effective Date: April 10, 2015

Jimmie Small's filing of April 1, 2015 ("motion")¹ included a request for reconsideration of Mr. Small's motion for summary determination.² Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") filed its response in an expedited fashion.³ The Commission denied Mr. Small's requests for leave to amend the complaint, and for a continuance, by separate order and rules on the reconsideration of his motion for summary determination in this order⁴ as follows.

¹ Electronic Filing and Information Service ("EFIS") No. 49 (April 1, 2015) *Complainant's MO.R. Civ. Proc. Rule 55.27(g) (3) Motion to Dismiss Ameren Missouri's September 8, 2014 Alleged Electric Utility Bill Claim in the State Amount of \$846.15*. References to EFIS indicate this file, unless otherwise provided.

² The Commission ruled on Mr. Small's requests for leave to amend the complaint by separate order. EFIS No. 54 (April 3, 2015) *Order Denying Leave to Amend Complaint and Denying Continuance*.

³ EFIS No. 53 (April 3, 2015) *Ameren Missouri's Response to Order Directing Filing*.

⁴ EFIS No. 25 (November 14, 2014) *4 CSR 240-2.117 Motion for Summary Determination*.

Summary determination means that a party wins without a hearing by establishing facts under which the law entitles the party to a favorable decision, and no one disputes those facts.⁵ Mr. Small charges unlawful denial of reconnection by Ameren Missouri. Ameren Missouri alleges that its denial of reconnection is lawful because of an amount due on the account of Mr. Small. Mr. Small argued that an amount due does not support denying reconnection, because Ameren Missouri did not try to collect that amount, and on that basis sought summary determination. In denying summary determination, the Commission found that Mr. Small did not establish the facts that he alleged.⁶

On the motion for reconsideration, Mr. Small must show the denial of his motion for summary determination “to be unlawful, unjust, or unreasonable.”⁷ In support of reconsideration, Mr. Small charges that he is being subjected to disparate treatment based on his Iowa residency, but has not established any disparate treatment. Mr. Small also charges that discovery disputes remain outstanding, but has not shown that such disputes render denial of his motion for summary determination unlawful, unjust, or unreasonable.

Further, Ameren Missouri notes that the existence of an amount due remains subject to genuine dispute. Mr. Small cites a five-year statute of limitations⁸ on the commencement of certain actions in circuit court.⁹ But no authority applies that statute to a complaint before this Commission and, if it did, the statute would extinguish only the procedure of filing an

⁵ 4 CSR 240-2.117(1)(E).

⁶ EFIS No. 34 (January 27, 2015) *Order Denying Motion To Strike and Motion For Summary Determination*.

⁷ 4 CSR 240-2.160(2).

⁸ Section 516.120, RSMo 2000.

⁹ Section 516.100, RSMo 2000.

action, not the existence of an amount due.¹⁰ Therefore, Mr. Small has not shown that his motion for summary determination was unlawful, unjust, or unreasonable.

Therefore, the Commission will deny the motion as to the request for reconsideration. This order does not constitute a final decision on Mr. Small's complaint. A final decision on Mr. Small's complaint will only occur after the evidentiary hearing scheduled for April 20, 2015, in Kirksville, Missouri,¹¹ as set forth by earlier orders.¹²

THE COMMISSION ORDERS THAT:

1. The motion described in the body of this order ("motion") is denied as to reconsideration of the motion for summary determination.
2. This order shall be effective when issued.



BY THE COMMISSION

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

Morris L. Woodruff
Secretary

R. Kenney, Chm., Stoll, W. Kenney,
Hall, and Rupp, CC., concur.

Jordan, Senior Regulatory Law Judge

¹⁰ *State ex rel. Jones v. Nolte*, 165 S.W.2d 632, 638 (Mo. banc 1942). The Commission reached the same conclusion in another decision and, though the other decision does not bind the Commission, the analysis remains persuasive. File No. GC-2008-0295, *Johnson v. Missouri Gas Energy*, EFIS No. 36 (November 6, 2008) *Report and Order* page 23 through 25.

¹¹ EFIS No. 41 (February 10, 2015) *Notice of Hearing*.

¹² EFIS No. 42 (February 10, 2015) *Order Governing Hearing and Pre-Hearing Procedure*.