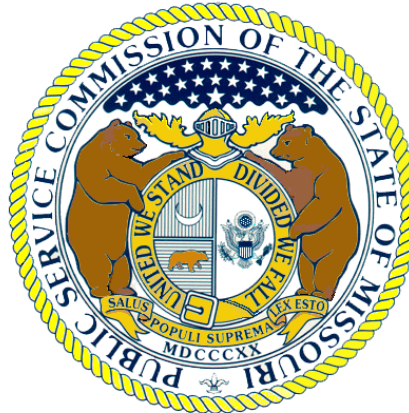


**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**



Jerreld Fisher,

Complainant,

v.

Union Electric Company d/b/a Ameren Missouri,

Respondent.

File No. EC-2017-0281

REPORT AND ORDER

Issue Date: November 16, 2017

Effective Date: December 16, 2017

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

Jerreld Fisher,)	
)	
Complainant,)	
)	
v.)	<u>File No. EC-2017-0281</u>
)	
Union Electric Company d/b/a Ameren Missouri,)	
)	
)	
Respondent.)	

APPEARANCES

Jerreld Fisher, 301 South Grand Blvd., St. Louis, Missouri 63103, on behalf of himself as a pro se complainant.

Appearing for **UNION ELECTRIC COMPANY d/b/a AMEREN MISSOURI**:

Sarah Giboney, Smith Lewis, LLP, 111 S. Ninth Street, P.O. Box 918, Columbia, Missouri 65205-0918.

Appearing for the **STAFF OF THE MISSOURI PUBLIC SERVICE COMMISSION**:

Nicole Mers, Legal Counsel, Governor Office Building, 200 Madison Street, Jefferson City, Missouri 65102.

SENIOR REGULATORY LAW JUDGE: Michael Bushmann

REPORT AND ORDER

I. Procedural History

On April 26, 2017, Jerreld Fisher filed a complaint with the Missouri Public Service Commission (“Commission”) against Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”). Mr. Fisher alleged primarily that Ameren Missouri has issued him incorrect bills and improperly disconnected and denied service as a result of the balance due on his account.¹

Ameren Missouri filed an amended answer to the complaint, denying Mr. Fisher’s allegations and moving to dismiss the complaint. That motion was denied at the hearing. The Commission’s Staff investigated and filed a report finding that Ameren Missouri committed no violations of any statute, regulation or Commission-approved tariff. Because there were material facts in dispute, the Commission held an evidentiary hearing on October 12, 2017, in Jefferson City, Missouri, to address Mr. Fisher’s allegations.²

II. Findings of Fact

Any finding of fact for which it appears that the Commission has made a determination between conflicting evidence is indicative that the Commission attributed greater weight to that evidence and found the source of that evidence more credible and more persuasive than that of the conflicting evidence.

¹ The information provided by Mr. Fisher also appeared to allege violations of the Constitution and federal law, but since the Commission is not authorized to adjudicate such matters those allegations will not be discussed further.

² Transcript, Volume 2 (hereinafter, “Tr.”). In total, the Commission admitted the testimony of 3 witnesses and received 23 exhibits into evidence. A post-hearing brief was filed on October 31, 2017, and the case was deemed submitted for the Commission’s decision on that date when the Commission closed the record. “The record of a case shall stand submitted for consideration by the commission after the recording of all evidence or, if applicable, after the filing of briefs or the presentation of oral argument.” Commission Rule 4 CSR 240-2.150(1).

1. Jerreld Fisher currently resides at 301 S. Grand Blvd., St. Louis, Missouri and was, at all times relevant hereto, a customer of Ameren Missouri for electric service.³

2. Ameren Missouri is a Missouri corporation with its principal place of business at One Ameren Plaza, 1901 Chouteau, St. Louis, Missouri 63103. Ameren Missouri is engaged in the business of providing electric service in Missouri to customers in its service areas.

3. Ameren Missouri is an “electrical corporation” and a “public utility” as those terms are defined in Section 386.020, RSMo 2016, and is subject to the jurisdiction and supervision of the Commission as provided by law.

4. The Office of the Public Counsel (“Public Counsel”) “may represent and protect the interests of the public in any proceeding before or appeal from the public service commission.”⁴ Public Counsel “shall have discretion to represent or refrain from representing the public in any proceeding.”⁵ The Public Counsel did not participate in the evidentiary hearing in this matter.

5. The Staff of the Missouri Public Service Commission (“Staff”) is a party in all Commission investigations, contested cases and other proceedings, unless it files a notice of its intention not to participate in the proceeding within the intervention deadline set by the Commission.⁶ Staff participated as a party in this matter.

6. At the evidentiary hearing, Ameren Missouri presented the testimony of Cathy Hart, who testified credibly regarding Ameren Missouri’s billing practices, recordkeeping,

³ Tr., p. 23.

⁴ Section 386.710(2), RSMo 2016; Commission Rules 4 CSR 240-2.010(10) and (15) and 2.040(2).

⁵ Section 386.710(3), RSMo 2016; Commission Rules 4 CSR 240-2.010(10) and (15) and 2.040(2).

⁶ Commission Rules 4 CSR 240-2.010(10) and (21) and 2.040(1).

and customer service protocols and Ameren Missouri's documents and records pertaining to Mr. Fisher's accounts for electric service.⁷

7. Ameren Missouri provided electric service to Mr. Fisher at 5103 Page Blvd., St. Louis, Missouri ("Page") at his request and in his name from May 14, 2010 until May 2, 2011.⁸

8. During the period that Ameren Missouri provided electric service to Mr. Fisher at Page, he did not make payments in full of the amounts billed for service, and his account fell into arrears. Mr. Fisher's outstanding account balance for service at Page in his final bill was \$2,344.11, which amount was transferred to Mr. Fisher's account for service at 3712 N. Euclid Unit 1, St. Louis, Missouri, ("Euclid") on June 22, 2011.⁹

9. Ameren Missouri provided electric service to Mr. Fisher at Euclid at his request and in his name from October 12, 2010 until June 30, 2011.¹⁰

10. It is common for customers to have two active accounts for residential service at one time, and there is no Ameren Missouri tariff that prohibits a customer from having more than one residential account at a time.¹¹

11. An energy assistance agency made pledges to Mr. Fisher's Euclid account during the period that service for the Euclid account was in his name.¹² Entities making energy assistance pledges will not make a pledge to a person at a location unless that location is the person's home.¹³

12. Almost all charges for service rendered at Euclid were paid by an energy assistance agency while that account was active. The remaining unpaid amount after those

⁷ Tr., p. 35-111.

⁸ Tr., p. 56-57, 61-62; Ex. 200; Ex. 203; Ex. 209C.

⁹ Tr., p. 65-67; Ex. 200.

¹⁰ Tr., p. 69-71; Ex. 201; Ex. 216; Ex. 218.

¹¹ Tr., p. 62-63.

¹² Tr., p. 72-74; Ex. 217.

¹³ Tr., p. 67-68, 72-73.

payments were applied toward the charges for service at Euclid was the account balance that had previously been transferred from Page, less \$0.46.¹⁴ That remaining balance from Euclid in the amount of \$2,343.65 was transferred to Mr. Fisher's account for service at 2519 St. Louis Ave., St. Louis, Missouri ("St. Louis Ave.") on September 28, 2012.¹⁵

13. Prior to September 28, 2012, the St. Louis Ave. account was in the name of Mr. Fisher's wife. When Ameren Missouri was notified that Mrs. Fisher had died, Ameren Missouri terminated Mrs. Fisher's account and sent an "unknown user" card to that address.¹⁶ Mr. Fisher called Ameren Missouri in response to that card on September 27, 2012, and his St. Louis Ave. account was opened the following day.¹⁷

14. On September 28, 2012, Mr. Fisher's account for St. Louis Ave. was charged for the electric service provided at that address between June 11, 2012 and September 27, 2012, which was the period of time after Mrs. Fisher's account was terminated.¹⁸

15. Mrs. Fisher's outstanding balance was very small, and Ameren Missouri did not transfer Mrs. Fisher's account balance into Mr. Fisher's account for St. Louis Ave.¹⁹

16. Ameren Missouri provided electric service to Mr. Fisher at St. Louis Ave. from June 11, 2012 through April 10, 2014.²⁰

17. Mr. Fisher did not personally make any payments on the St. Louis Ave. account while it was active, although some payments were made by energy assistance agencies.²¹

¹⁴ Tr., p. 72, 110-111; Ex. 201.

¹⁵ Tr., p. 71-72; Ex. 201; Ex. 202.

¹⁶ Tr., p. 77-78.

¹⁷ Ex. 205, p. 28.

¹⁸ Tr., p. 77-78.

¹⁹ Tr., p. 76-77.

²⁰ Tr., p. 76; Ex. 202.

²¹ Tr., p. 81-82; Ex. 202.

18. Mr. Fisher did not make payment in full of bills for service at St. Louis Ave., which resulted in his account becoming delinquent. As of March 24, 2014, his outstanding account balance was more than \$3,200.²²

19. Ameren Missouri sent Mr. Fisher disconnection notices on March 25, 2014 and April 3, 2014.²³

20. Ameren Missouri disconnected Mr. Fisher's service at St. Louis Ave. on April 10, 2014 for nonpayment of his outstanding bills.²⁴

21. Mr. Fisher did not make any payments on his St. Louis Ave. account between the time the disconnection notices were issued and disconnection of service.²⁵ Mr. Fisher did not dispute the charges on the St. Louis Ave. account by notifying Ameren Missouri of a dispute prior to the time of the disconnection.²⁶

22. The final bill issued to Mr. Fisher was in the amount of \$4,870.05.²⁷ Mr. Fisher made two payments of \$50 each on the St. Louis Ave. account after the date that service was disconnected, which reduced his total outstanding account balance to \$4,770.05.²⁸

23. On November 21, 2014, Mr. Fisher contacted Ameren Missouri by telephone and requested that his electric service at St. Louis Ave. be restored.²⁹ On that date, Ameren Missouri representatives informed Mr. Fisher of the balance due of \$4,770.05 on that account and that to restore service he would need to make a down payment of \$949 with

²² Ex. 202, p. 3.

²³ Ex. 205, p. 6-7.

²⁴ Tr., p. 78; Ex. 205, p. 6.

²⁵ Ex. 202, p. 3.

²⁶ Tr., p. 80-81.

²⁷ Ex. 202, p. 3.

²⁸ Tr., p. 82; Ex. 202, p. 3.

²⁹ Tr., p. 82-83; Ex. 205, p. 5.

the remaining balance paid in equal monthly payments of \$159 over 24 months, rather than the typical 12 month payment period.³⁰

24. On January 22, 2015, an energy assistance agency made two initial pledges for payment in the amounts of \$233 and \$716 on Mr. Fisher's payment agreement for St. Louis Ave.³¹ Those payments were returned in March 2015 because electric service was never restored.³²

25. On January 22, 2015, Ameren Missouri established a new account number for Mr. Fisher at St. Louis Ave. and issued an order to connect electric service, contingent on Mr. Fisher obtaining an electrical wiring inspection for that house from the City of St. Louis.³³

26. In the City of St. Louis, where St. Louis Ave. is located, a city ordinance makes it unlawful for Ameren Missouri to supply electricity to any structure or premise that has not been in use for more than six months without inspection of the wiring of that structure.³⁴ Ameren Missouri does not have the authority to waive that inspection.³⁵ The intent of the ordinance is to "insure public health, safety and welfare insofar as they are affected by the installation and maintenance of electrical systems".³⁶

27. After electric service to St. Louis Ave. was disconnected, vandals cut the electrical wiring and removed plumbing, making the house uninhabitable.³⁷ As of the date of the hearing, Mr. Fisher had not repaired the wiring in the house and had not obtained the

³⁰ Tr., p. 83-84; Ex. 205, p. 4.

³¹ Tr., p. 84-86; Ex. 206, p. 6.

³² Ex. 206, p. 4-5.

³³ Tr., p. 85-86; Ex. 205, p. 3; Ex. 208.

³⁴ Tr., p. 86-88; Ex. 207, p. 25-2.99.

³⁵ Tr., p. 88.

³⁶ Ex. 207, p. 25-2.89.

³⁷ Tr., p. 29.

required wiring inspection by the City of St. Louis.³⁸ Mr. Fisher is a certified, licensed, and bonded electrician.³⁹

28. One of Ameren Missouri's tariffs requires it to provide electric service to customers only after all approvals are obtained from governmental and regulatory authorities having jurisdiction.⁴⁰

29. On June 23, 2017, Ameren Missouri mailed Mr. Fisher a letter explaining what he needed to do in order to have his electric service re-connected at St. Louis Ave.⁴¹

III. Conclusions of Law

Although Mr. Fisher is not a person or an entity regulated by the Commission, he submitted himself to the Commission's jurisdiction when he filed his complaint pursuant to Section 386.390, RSMo 2016. Ameren Missouri provides electric service to customers throughout the service area certificated to it by the Commission. Ameren Missouri is an "electrical corporation" and "public utility" as those terms are defined by Section 386.020, RSMo 2016, and is subject to the Commission's jurisdiction, supervision, control and regulation as provided in Chapters 386 and 393, RSMo 2016.

Since Mr. Fisher brought the complaint, he bears the burden of proof.⁴² The burden of proof is the preponderance of the evidence standard.⁴³ In order to meet this standard, Mr. Fisher must convince the Commission it is "more likely than not" that Ameren Missouri

³⁸ Tr., p. 29-30, 92.

³⁹ Tr., p. 29.

⁴⁰ Ex. 220.

⁴¹ Ex. 100, Schedule 2.

⁴² *State ex rel. GS Technologies Operating Co., Inc. v. Pub. Serv. Comm'n of State of Mo.*, 116 S.W.3d 680, 693 (Mo. App. 2003).

⁴³ *Bonney v. Environmental Engineering, Inc.*, 224 S.W.3d 109, 120 (Mo. App. 2007); *State ex rel. Amrine v. Roper*, 102 S.W.3d 541, 548 (Mo. banc 2003); *Rodriguez v. Suzuki Motor Corp.*, 936 S.W.2d 104, 110 (Mo. banc 1996).

violated an applicable statute, rule, or provision of a Commission-approved tariff.⁴⁴ The issue for determination is whether Ameren Missouri violated any state law, Commission rule, or company tariff relating to billing, disconnection of service, or re-connection of Mr. Fisher's electric service.

Billing

There is competent, substantial, and credible evidence in the record that Mr. Fisher's bills for service provided at Page, Euclid, and St. Louis Ave. are correct. Mr. Fisher denies that he requested service for or lived at Euclid and alleges that the Page and Euclid bill accounts were questionable because they were both in his name during overlapping periods of time. However, the evidence showed that it is permissible for a customer to have more than one residential service account at a time. Mr. Fisher also received energy assistance pledges while the Euclid account was in his name from agencies that will not make a pledge to a person at a location unless that location is the person's home. Ameren Missouri's records indicate that Mr. Fisher requested and received service at Page, Euclid, and St. Louis Ave. In addition, Mr. Fisher did not dispute the amount of any bills until after his service at St. Louis Ave. had been disconnected. The evidence showed that Mr. Fisher's outstanding account balances were transferred from Page to Euclid to St. Louis Ave., but that practice is specifically permitted under Commission rules.⁴⁵ Based on all this evidence, the Commission concludes that bills issued to Mr. Fisher for service at Page, Euclid, and St. Louis Ave are correct, and Mr. Fisher's outstanding account balance currently due is \$4,770.05.

⁴⁴ *Holt v. Director of Revenue, State of Mo.*, 3 S.W.3d 427, 430 (Mo. App. 1999); *McNear v. Rhoades*, 992 S.W.2d 877, 885 (Mo. App. 1999); *Rodriguez*, 936 S.W.2d at 109 -111; *Wollen v. DePaul Health Center*, 828 S.W.2d 681, 685 (Mo. banc 1992).

⁴⁵ Commission Rule 4 CSR 240-13.050(2)(B).

Disconnection of service

Mr. Fisher claims that the disconnection of his electric service at St. Louis Ave. was improper. A utility may discontinue service to a customer for nonpayment of an undisputed delinquent charge.⁴⁶ To create a dispute, a customer must notify a utility of any dispute regarding a charge at least 24 hours prior to the date that utility service is proposed to be discontinued.⁴⁷ A utility must provide the customer with appropriate notices of the disconnection of service at least 10 days and 24 hours prior to the date of the proposed disconnection.⁴⁸

Mr. Fisher did not present any evidence that the disconnection of electric service at St. Louis Ave. by Ameren Missouri was improper. The evidence showed that (1) Ameren Missouri disconnected Mr. Fisher's service due to nonpayment of delinquent charges; (2) Mr. Fisher did not dispute the charges on the St. Louis Ave. account prior to the time of the disconnection because Mr. Fisher did not notify Ameren Missouri of any dispute at least 24 hours prior to the date that service was proposed to be discontinued; (3) Ameren Missouri provided Mr. Fisher with proper notices of the disconnection at least 10 days and 24 hours prior to the date of disconnection; and (4) Mr. Fisher did not make any payments on his St. Louis Ave. account between the time the disconnection notices were issued and disconnection of service. The Commission concludes that Ameren Missouri did not violate any state statute, Commission rule, or company tariff when disconnecting Mr. Fisher's service at St. Louis Ave.

⁴⁶ Commission Rule 4 CSR 240-13.050(1)(A).

⁴⁷ Commission Rule 4 CSR 240-13.045(1).

⁴⁸ Commission Rule 4 CSR 240-13.050(5) and (8).

Re-connection of service

Mr. Fisher claims that Ameren Missouri should have restored his electric service at St. Louis Ave. after he requested re-connection on November 21, 2014, which was more than six months after his service had been disconnected. At the time of his request, Ameren Missouri created a new account for him at St. Louis Ave. and issued a connect order, but held up re-connecting service pending the completion of a wiring inspection by the City of St. Louis, which is required by city ordinance for any structure that has not been in use for more than six months. Since Ameren Missouri refused to commence service at St. Louis Ave. upon Mr. Fisher's request for service, that refusal constitutes a denial of service.⁴⁹

A utility may refuse to provide service to a person for "failure to pay a delinquent utility charge for services provided by that utility...that is not subject to dispute..." and shall inform the person in writing.⁵⁰ Mr. Fisher's outstanding account balance of \$4,770.05 for St. Louis Ave. was not in dispute when he requested re-connection, and Ameren Missouri subsequently informed Mr. Fisher by letter explaining what he needed to do in order to have his electric service re-connected at St. Louis Ave. Ameren Missouri was in compliance with Commission rules when it refused to commence service to St. Louis Ave. due to Mr. Fisher's failure to pay an undisputed delinquent charge for electric service.

A utility may also "refuse to commence service temporarily for reasons of ...health, [or] safety...until the reason for such refusal has been resolved".⁵¹ Ameren Missouri refused to re-connect service until Mr. Fisher complied with the city ordinance requiring a wiring inspection of his house since it had no service for more than six months. The

⁴⁹ Commission Rule 4 CSR 240-13.015(K).

⁵⁰ Commission Rule 4 CSR 240-13.035(1)(A).

⁵¹ Commission Rule 4 CSR 240-13.035(4).

purpose of the ordinance is to ensure public health and safety relating to the installation and maintenance of electrical systems. It is reasonable to infer that it may not be safe to re-connect service to a residence which has not had service for more than six months without an inspection of the wiring, especially in this case where the wiring in the house had been cut by vandals and not yet repaired. The Commission finds that Ameren Missouri's requirement for a wiring inspection was in compliance with the St. Louis City ordinance and was based on reasons of public health and safety.

Mr. Fisher argues that Ameren Missouri has a fiduciary duty as the monopoly provider of electric service in St. Louis to provide him with electric power even though he cannot pay the bill he has accrued, and to forgive his bill or charge him a lesser amount based on his income because he is a veteran, disabled, and impoverished. Mr. Fisher does not cite, nor is the Commission aware of, any particular state law or Commission rule that would impose such duties on Ameren Missouri. To the contrary, Missouri law specifically prohibits a utility from charging or receiving greater or less compensation for electric service than the utility charges any other person for similar service under the same circumstances, and prohibits the utility from granting any undue or unreasonable preference or advantage to any person.⁵² The Commission concludes that Ameren Missouri's refusal to commence service to St. Louis Ave. was lawful and proper because Mr. Fisher had not paid an undisputed delinquent charge for electric service, and Mr. Fisher failed to obtain the necessary wiring inspection from the City of St. Louis for his house at St. Louis Ave.

IV. Decision

In making this decision, the Commission has considered the positions and arguments of all of the parties. After applying the facts to the law to reach its conclusions,

⁵² Section 393.130.2 and 393.130.3, RSMo 2016.

the Commission concludes that the substantial and competent evidence in the record supports the conclusion that Mr. Fisher has failed to meet, by a preponderance of the evidence, his burden of proof to demonstrate that Ameren Missouri violated any statute, Commission rule, order or tariff provision. Mr. Fisher's complaint will be denied on the merits.

THE COMMISSION ORDERS THAT:

1. Jerreld Fisher's complaint is denied.
2. This Report and Order shall become effective on December 16, 2017.
3. This file shall close on December 17, 2017.

BY THE COMMISSION



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

Morris L. Woodruff
Secretary

Hall, Chm., Stoll, Kenney, Rupp, and
Coleman, CC., concur.

Bushmann, Senior Regulatory Law Judge

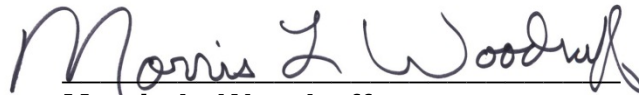
STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 16th day of November 2017.




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

November 16, 2017

File/Case No. EC-2017-0281

**Missouri Public Service
Commission**

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Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



**Morris L. Woodruff
Secretary**

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.