

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

Jerreld Fisher	)	
	)	
Complainant,	)	
	)	
vs.	)	Case No: EC-2017-0281
	)	
Union Electric Company, d/b/a	)	
Ameren Missouri,	)	
Respondent.	)	

**AMEREN MISSOURI'S POST-HEARING BRIEF**

COMES NOW Union Electric Company d/b/a Ameren Missouri (the “Company”) and respectfully submits its post-hearing brief.

**I. Introduction**

Mr. Fisher filed a complaint against the Company (the “Complaint”), alleging, in the main, that the Company violated, “PSC document ‘Denial of Service’ published guidelines [and] [w]rongfully terminated [his] service in 2014 and denial continued until this day.”<sup>1</sup> With leave from the Commission,<sup>2</sup> the Company filed its amended answer (the “Answer”), asserting that it properly disconnected Mr. Fisher’s service for nonpayment of an undisputed outstanding account balance, did not deny him service when he asked for his service to be reconnected but in fact

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<sup>1</sup> *Complaint* (April 26, 2017), EFIS Item 1. Mr. Fisher also alleged the Company violated his Constitutional rights, *Complaint* at ¶¶ 33-39, and prayed for relief in the form of money damages and relief from payment of his outstanding balance, *Id.* at ¶ 46 and 47. However, as Judge Bushmann observed during the pre-hearing conference:

I should let you know, Mr. Fisher, that the Commission is not a court of law, and so it doesn't have the authority to make a decision about constitutional claims or to award any money damages. The only thing the Commission can decide is whether or not Ameren Missouri violated a state law, one of its tariffs, or one of the Commission's rules. Tr. Vol. 1, p. 5, l. 1-7.

Likewise at the evidentiary hearing, Judge Bushmann noted,

Ameren Missouri is correct that the Commission does not have the authority to rule on Mr. Fisher’s constitutional or federal claims or award any money damages[.] Tr. Vol. 2, p. 18, l. 19-22.

In addition to lacking the statutory authority to order damages, the Commission cannot require a refund or grant equitable relief. *State ex. rel. GS Technologies Operating Co., Inc. v. Public Service Comm’n*, 116 S.W.3d 680, 695 (Mo. App. 2003); *American Petroleum Exchange v. Public Service Comm’n*, 172 S.W.2d 952, 956 (Mo. 1943).

<sup>2</sup> *Order Granting Motion for Leave to File Amended Answer* (June 21, 2017), EFIS Item 18.

arranged for his service to be reconnected, and further answered that had it denied him service, such denial would have been proper.<sup>3</sup>

Because Mr. Fisher brought the Complaint, he has the burden of proving that the Company violated a statute, rule, order or Commission-approved tariff.<sup>4</sup> He must prove the alleged violations by a preponderance of the evidence—that it is more likely than not.<sup>5</sup> Mr. Fisher appeared and testified at the evidentiary hearing of his Complaint on October 12, 2017, but failed to present any evidence to support a finding that the Company wrongfully terminated his service or wrongfully denied him service. Although the Company did not have the burden of proof, the Company also appeared at the evidentiary hearing and presented evidence proving that it has complied with all applicable statutes, Commission Rules, Commission-approved Company tariffs and the Electrical Code of the City of St. Louis in its dealings with Mr. Fisher.<sup>6</sup>

## **II. Issues.**

The issues for the Commission’s determination are whether Ameren Missouri denied service to Mr. Fisher and if so, whether such denial of service violated any applicable statutes, Commission rules, and the Commission-approved Company tariff.<sup>7</sup>

### **a. The Company properly billed Mr. Fisher for service to Page, Euclid and St. Louis Ave., properly transferred his outstanding account balance from one account to the next, and properly disconnected his service to St. Louis Ave. for nonpayment of his undisputed, outstanding account balance there.**

Underpinning Mr. Fisher’s argument that the Company has wrongfully denied him service is his assertion that the Company improperly billed him for residential electric service (“service”) to 5103 Page Boulevard, St. Louis Missouri (“Page”) and to 3712 N. Euclid Unit 1, St. Louis, Missouri (“Euclid”), and as a result, wrongfully transferred those balances to his account for service to 2519 St. Louis Ave., St. Louis Missouri (“St. Louis Ave.”), and then

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<sup>3</sup> *Amended Answer, Affirmative Defenses and Motion to Dismiss* (June 21, 2017), EFIS Item 21.

<sup>4</sup> *State ex rel. GS Technologies Operating Co., Inc. v. Pub. Serv. Comm’n of State of Mo.*, 116 S.W.3d 680, 693 (Mo. Ct. App. 2003).

<sup>5</sup> *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). *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).

<sup>6</sup> Tr. Vol.2, p. 35 to p. 111, testimony of the Company’s expert witness and corporate representative Cathy Hart, and Ameren Missouri Exhibits (“Ex.”) 200 through 220.

<sup>7</sup> *List of Issues, List of Witnesses, Order of Cross Examination and Order of Opening Statements* (September 19, 2017) (“*List of Issues*”), EFIS Item 29.

wrongfully disconnected his service to St. Louis Ave. for nonpayment.<sup>8</sup> Therefore, the Company will first address the issue of Mr. Fisher's responsibility for the Page, Euclid and St. Louis Ave. account balances, the transfer of those balances, and the disconnection of his service for nonpayment.

### **1. Page**

The Company provided service ("service") in Mr. Fisher's name to Page from May 14, 2010 until May 2, 2011.<sup>9</sup> The Company began providing service there at Mr. Fisher's request, made during a phone call to the Company on May 10, 2010.<sup>10</sup> The Company's records show that Mr. Fisher called to request that the Company terminate service in his name at Page on May 2, 2011, at which time he requested that his service be transferred from Page to another address.<sup>11</sup> At Mr. Fisher's request, the Company terminated service in his name at Page as of May 2, 2011 and stopped charging him for service there as of that date,<sup>12</sup> even though it later appeared that he was still living at Page as late as June 22, 2011.<sup>13</sup> During the period that service was provided to Mr. Fisher at Page, he failed to make timely payments in full of the amounts billed to him, and his account fell into arrears.<sup>14</sup> His outstanding account balance, and the amount of the final bill issued for service to him at Page was \$2,344.11.<sup>15</sup> Mr. Fisher was aware of the final bill amount, having acknowledged receipt of the final bill during his call to the Company on June 22, 2011, during which call he noted he was going to seek energy assistance to pay the bill, and the Company representative advised him that if he was not able to do so, the outstanding balance would be transferred to another Ameren Missouri account for him.<sup>16</sup> Although Mr. Fisher disclaims responsibility for the Page account balance on the basis that he only, "lived...a very short time at the 5103 Page address,"<sup>17</sup> Mr. Fisher is responsible for the

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<sup>8</sup> While billing and disconnection were not specifically identified in the *List of Issues*, Judge Bushmann also noted during the hearing that "[t]he issue in the hearing is whether Ameren Missouri violated any state laws, Commission rule or company tariff relating to billing, disconnection of service, or reconnection of Mr. Fisher's electric service." Tr. Vol. 2, p. 21, l. 8-12.

<sup>9</sup> Ex. 200, Jerreld Fisher 5103 Page account activity statement, *see* Billing Period column.

<sup>10</sup> Ex. 209C, recording of May 10, 2010 call between Jerreld Fisher and Company representative.

<sup>11</sup> Ex. 203, Jerreld Fisher 5103 Page Blvd. contacts, p. 1, note entered on 2011-05-02.

<sup>12</sup> Ex. 200, Jerreld Fisher 5103 Page Blvd. account activity statement, p. 2, entry dated 05/04/2011, detailing a billing period ending 05/02/2011.

<sup>13</sup> Ex. 203, p. 1, note entered 2011-06-22.

<sup>14</sup> Ex. 200, compare Charges/Debits column to Payment/Credits column.

<sup>15</sup> Ex. 200, p.2, entry dated 05/04/2011, detailing a final bill amount of \$2,344.11.

<sup>16</sup> Ex. 210C, recording of June 22, 2011 call between Jerreld Fisher and Company representative.

<sup>17</sup> Tr. Vol. 2, p. 23, l. 21 to p. 24, l. 6.

entire outstanding account balance at Page because the Company's Commission-approved tariff provides that a customer shall:

*Be responsible for payment of all electric service used on customer's premises and for all requirements of the provisions of the Service Classification under which the electric service is provided, until such time as customer notifies Company to terminate service.*<sup>18</sup> (emphasis added).

## **2. Euclid**

The Company also provided service to Euclid under an account in Mr. Fisher's name.<sup>19</sup> The Company's evidence included a number of Company records. Its account activity statement for service to Euclid in Mr. Fisher's name specifically states that service there was requested by him and that the bills were mailed to his attention, and reflects that he was sent bills for the service beginning with a bill on October 27, 2010 and ending with a final bill on July 5, 2011.<sup>20</sup> Another Company record shows that the Euclid account in Mr. Fisher's name was opened on October 12, 2010.<sup>21</sup> A third record shows that service to Euclid was transferred out of Mr. Fisher's name and into another customer's name on June 30, 2011.<sup>22</sup> A fourth record shows that energy assistance pledges were made to the Euclid account during the period service there was in his name.<sup>23</sup> As Ms. Cathy Hart, the Company's expert witness and corporate representative, testified, this demonstrates that an energy assistance agency had verified that Mr. Fisher lived at Euclid, since energy assistance agencies do not provide heating assistance to a person at a location unless that location is the person's home.<sup>24</sup> All these records are evidence that Mr. Fisher requested service in his name at Euclid, and received the benefit of service there from October 12, 2010 through June 30, 2011. Admittedly, the Company was unable to locate and offer into evidence a recorded call of Mr. Fisher requesting service to Euclid, as it had for Page.<sup>25</sup> Although Mr. Fisher seems to find the fact that the Company does not have such record

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<sup>18</sup> Union Electric Company Electric Service Tariff Sheet 103, General Rules and Regulations, I. General Provisions, G. Customer Obligations, subsection 7. (emphasis added)

<sup>19</sup> Ex. 218, Jerreld Fisher 3712 N. Euclid Unit 1 account details.

<sup>20</sup> Ex. 201, Jerreld Fisher 3712 N. Euclid Unit 1 account activity statement, *see* "Requested By" notation in upper lefthand corner, "Mail To" notation in upper center, and billing activity showing issuance of nine regular bills and one final bill.

<sup>21</sup> Ex. 218, Jerreld Fisher 3712 N. Euclid Unit 1 account details.

<sup>22</sup> Ex. 216, 3712 N. Euclid Unit 1 service order.

<sup>23</sup> Ex. 217, Jerreld Fisher 3712 N. Euclid Unit 1 energy assistance pledges and payments, p.1.

<sup>24</sup> Tr. Vol. 2, p. 67, l. 14 to p. 68, l. 2.

<sup>25</sup> Tr. Vol. 2, p. 101, l. 11-18.

to be determinative of the issue of whether he ever requested service there,<sup>26</sup> Ms. Hart testified that the Company simply does not retain every account record indefinitely and unfortunately its records regarding Mr. Fisher's accounts do not include every call Mr. Fisher has ever made to the Company.<sup>27</sup> Mr. Fisher denied having requested service to Euclid and ever living at Euclid, and referred to the Euclid bill as a, "fraudulent attachment to [his] name."<sup>28</sup> However, he did not offer any evidence other than his denials to rebut the Company's evidence.

Just a few days prior to termination of the Euclid account in Mr. Fisher's name, the Company transferred the \$2,344.11 outstanding balance from the Page account into Mr. Fisher's Euclid account.<sup>29</sup> This transfer did not violate any statute, Commission Rule, or Commission-approved Company tariff. Rather, a Commission Rule specifically permits the transfer:

[A] utility may transfer and bill any unpaid balance to any other residential service account of the customer...[.]<sup>30</sup>

Likewise, a Company tariff also permits the transfer of balances:

In the event of disconnection or termination of service at a separate customer metering point, premise or location, Company may transfer any unpaid balance to any other service account of the customer having a comparable class of service.<sup>31</sup>

Mr. Fisher also testified that he believed that the Page and Euclid billings were, "questionable at the very least" because they were for "simultaneous usage" resulting in identical amounts though one account was open eight months and the other nearly a year.<sup>32</sup> As to the ending balances of Page and Euclid being similar, Ms. Hart testified that payments made on the Euclid account paid all the arrearages related to service provided at Euclid, such that all that was left on the Euclid account after those payments was the balance that had been transferred in from the Page account.<sup>33</sup> Details in the account activity statement for Euclid also show that the balance that remained after the last payments were applied toward the charges for service to Euclid was the transferred balance from Page (less \$0.46). This is apparent if one sets aside for a

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<sup>26</sup> Tr. Vol. 2, p. 100, l. 16-22.

<sup>27</sup> Tr. Vol. 2, p. 56, l. 1-14.

<sup>28</sup> Tr. Vol. 2, p. 100, l. 7-22.

<sup>29</sup> Ex. 200, p. 2, entry dated 06/22/2011, transferring a \$2,344.11 debit to the account number associated with Euclid, and corresponding entry on Ex. 201, p. 1, dated 06/22/2011, showing a transferred debit of \$2,344.11 from the account number associated with Page.

<sup>30</sup> 4 CSR 240-13.050(2)(B).

<sup>31</sup> Union Electric Company Electric Service Tariff No. 131.1, General Rules and Regulations, V. Billing Practices, F. Transfer of Balances

<sup>32</sup> Tr. Vol. 2, p. 101, l. 19 to p. 102, l. 16.

<sup>33</sup> Tr. Vol. 2, p. 110, l. 10 to p. 111, l. 7.

moment the \$2,344.11 transferred in from Page and considers only the charges related to service for Euclid. As of May 24, 2011, a month prior to the transfer, the Euclid outstanding account balance was \$813.10.<sup>34</sup> Then on June 9, 2011, the Company received a payment of \$107.10,<sup>35</sup> which would have reduced the outstanding balance to \$706.00. As of June 23, 2011, the Company charged an additional \$209.19 for electric service to Euclid (part of which was temporarily deferred under a budget billing arrangement, but all of which was charged),<sup>36</sup> then charged another \$52.25 for electric service on July 5, 2011,<sup>37</sup> bringing the Euclid-only service related charges to \$967.44. In August and October of 2011, the Company received payments (on pledges made on the Euclid account in June of 2011 before the Page balance was transferred in) totaling \$977.00,<sup>38</sup> \$0.46 more than the Euclid-related charges. On June 22, 2011, the \$2,344.11 outstanding account balance was transferred into the Euclid account.<sup>39</sup> The \$0.46 excess of payments over the Euclid-related arrearages reduced what remained of the transferred Page balance to \$2,343.65.<sup>40</sup>

Mr. Fisher also stated, in support of his argument that the Page and Euclid billings were incorrect, that at the time the accounts for Page and Euclid were active, he also had service at St. Louis Ave., implying that it was either impossible or improper for the Company to permit a customer to have more than one residential electric service account at a time.<sup>41</sup> However, Ms. Hart confirmed that, for the Company's purposes, it is fine for a customer to have more than one residential service account at a time, and there is no Company requirement that a customer live at a particular address in order to establish service in their name at that address.<sup>42</sup> Further, Mr. Fisher cannot credibly complain about the Company providing service to him to two addresses at once, since in his May 14, 2010 call to the Company, he specifically requested that his current service at another address remain on after the service at Page was established.<sup>43</sup>

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<sup>34</sup> Ex. 201, p. 1, entry dated 05/24/2011, Total Bill column.

<sup>35</sup> *Id.*, p. 1, entry dated 06/09/2011, Payments/Credits column.

<sup>36</sup> *Id.*, p. 2, entry at very top of page, Transaction column.

<sup>37</sup> *Id.*, p. 2, entry dated 07/05/2011, Transaction column.

<sup>38</sup> *Id.*, p. 2, entries dated 08/19/2011, 8/30/2011 and 10/07/2011, Payments/Credits column; Ex. 217, p.2.

<sup>39</sup> *Id.*, p. 1, entry dated 06/22/2011, Charges/Debits column.

<sup>40</sup> *Id.*, p. 2, entry dated 09/28/2012, Charges/Debits column.

<sup>41</sup> Tr. Vol. 2, p. 24, l. 7-20.

<sup>42</sup> Tr. Vol. 2, p. 62, l. 20 to p. 63, l. 2; p. 67, l. 10-23.

<sup>43</sup> Ex. 209C, recording of call between Jerreld Fisher and Company representative, at 38 sec.; Tr. Vol. 2, p. 62, l. 4-19.

### 3. St. Louis Ave.

Mr. Fisher also disclaimed responsibility for the outstanding balance for service in his name to St. Louis Ave. Mr. Fisher's St. Louis Ave. account was opened when he called the Company in response to a Company "unknown user" card the Company had sent to the address.<sup>44</sup> The unknown user card was sent because service to 2519 St. Louis Ave. under an account in his wife's name had been terminated on June 10, 2012, when the Company was advised by his wife's sister that she had died.<sup>45</sup> When Mr. Fisher called on September 27, 2012, the St. Louis Ave. account in his name was established, and he was charged for the service provided there between June 11 and September 27.<sup>46</sup> That same date, the remainder of Mr. Fisher's outstanding balance from Page, \$2,343.65, was transferred from the Euclid account to Mr. Fisher's St. Louis Ave. account.<sup>47</sup> Again, transfer of the unpaid balance from a prior residential service account in Mr. Fisher's name to the St. Louis Ave. residential service account in his name was proper.<sup>48</sup>

Contrary to Mr. Fisher's assertion that the outstanding balance on his deceased wife's account for service to 2519 St. Louis Ave. might have been transferred to his account for that address, Ms. Hart testified that Mrs. Fisher's outstanding balance had been very small, and no part of it had been transferred to Mr. Fisher's account.<sup>49</sup> This is also evident from the account activity statement for 2519 St. Louis—the only amount transferred into the account was the \$2,343.65.<sup>50</sup>

Mr. Fisher has admitted to living at St. Louis Ave. from June 11, 2012 through April 10, 2014.<sup>51</sup> The Company provided service to Mr. Fisher at St. Louis Ave. from June 11, 2012 through April 10, 2014.<sup>52</sup> Mr. Fisher personally made no payments whatsoever on the St. Louis Ave. account during the twenty-two months he received service there in his name.<sup>53</sup> The

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<sup>44</sup> Ex. 205, Jerreld Fisher 2519 St. Louis Ave. contacts, p. 28, note entered on 2012-09-27.

<sup>45</sup> *Id.*

<sup>46</sup> Ex. 202, Jerreld Fisher 2519 St. Louis Ave. account activity statement, entries dated 09/28/2012.

<sup>47</sup> *Id.*

<sup>48</sup> 4 CSR 240-13.050(B).

<sup>49</sup> Tr. Vol. 2, p. 76, l. 23 to p. 77, l. 7.

<sup>50</sup> Ex. 202, p. 1, entry dated 09/28/2012.

<sup>51</sup> *Correspondence*, EFIS Item 7, p.2, "Clearly I lived at 2519 St. Louis Ave from June 11 2012-4/10/2014 under my name."

<sup>52</sup> Ex. 202.

<sup>53</sup> Tr. Vol. 2, p. 81, l. 12- 21.

payments that were made were all made by energy assistance agencies,<sup>54</sup> as evidenced by entries in Ex. 202 and Ex. 205, as follows:

- \$251 pledged on October 25, 2012 to initiate a payment agreement, paid on November 9, 2012;
- \$800 pledged on March 19, 2013 to initiate a payment agreement and avoid disconnection for non-payment, paid on April 25, 2013;
- \$2,200 in total pledged on June 25, 2013, to pay the amount necessary to re-connect service after a disconnection for non-payment and to initiate a payment agreement for the remaining amount due, paid on July 12, 2013, July 26, 2013 and September 20, 2013; and
- \$2,531 in total pledged on January 13, 2014, to pay the amount necessary to re-connect service after a disconnection for nonpayment and to initiate a payment agreement for the remaining amount due, paid on January 31, 2014, February 3, 2014, February 27, 2014 and March 19, 2014.

Despite the energy assistance payments that covered a significant portion of the charges, Mr. Fisher failed to make timely payments in full of the amounts billed to his St. Louis Ave. account, and his account grew further into arrears. As of March 24, 2014, of his total account balance of \$4,589.34 for service provided through February 20, 2014, \$3,299.79 was delinquent.<sup>55</sup>

The Company sent a disconnection notice to Mr. Fisher on March 25, 2014 and a second disconnection notice to him on April 3, 2017, advising that if the delinquent portion of his account balance was not paid on or before April 8, 2014, his service would be disconnected for nonpayment.<sup>56</sup> The Company did not receive any payment from Mr. Fisher after the disconnection notices were issued.<sup>57</sup> On April 9, 2014, the Company issued a service order to cut the service.<sup>58</sup> On April 10, 2014, the Company disconnected Mr. Fisher's service to 2519 St. Louis Ave for his failure to pay the then prior delinquent balance of \$3,299.79.<sup>59</sup> The Company gave proper notice of the pending disconnection under the Commission's Rules, by sending one

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<sup>54</sup> Tr. Vol. 2, p. 81, l. 22-24.

<sup>55</sup> Ex. 202, p. 3: as of 02/21/2014, the total bill was \$4,449.79 and was due on March 6, 2014. That amount was not paid by the due date and became delinquent, but by March 19, 2014, two energy assistance pledge payments totaling \$1,150 had been made that reduced the delinquent portion of the total due to \$3,299.79.

<sup>56</sup> Ex. 205, pp. 6 and 7, entries dated 2014-03-25 and 2014-03-27.

<sup>57</sup> Ex. 202.

<sup>58</sup> Ex. 208, Jerreld Fisher 2519 St. Louis Ave. service order, entry dated 04/09/14.

<sup>59</sup> *Id.*, entry dated 04/10/14; Ex. 205, p. 6, entry dated 2014-04-10; note that additional amounts were due, but \$3,299.79 was the then delinquent amount.

written notice at least ten days prior to the date of the proposed discontinuance, and a second notice at least twenty-four hours preceding the discontinuance.<sup>60</sup>

The disconnection itself was proper because under the Commission's Rules, a utility may disconnect a customer's service for nonpayment of an undisputed delinquent charge.<sup>61</sup>

Although Mr. Fisher *subsequently* disputed the charges, the charges were not disputed prior to the time of the disconnection. To register a dispute such that a disconnection may be avoided, a customer must among other requirements,<sup>62</sup> advise the utility at least twenty-four hours prior to the date of proposed discontinuance of service, by written notice, in person or by telephone message during normal business hours, that all or a part of a charge is in dispute.<sup>63</sup> As Ms. Hart testified, at no time prior to the April 10<sup>th</sup>, 2014 disconnection had Mr. Fisher notified the Company that he disputed the charges.<sup>64</sup> The contact notes for Mr. Fisher's St. Louis Ave. account also do not reflect that Mr. Fisher *ever* registered a dispute about the St. Louis Ave. account charges billed to him while that account was active.<sup>65</sup>

By the time service to St. Louis Ave. was disconnected, Mr. Fisher had also been billed for service provided to him from February 20, 2014 through March 23, 2014, due April 4, 2014, which was not paid. The final bill issued to him on April 28, 2014 also included charges for service provided to him from March 23, 2014 through April 10, 2014, due May 9, 2014. The total amount owed was \$4,870.05.<sup>66</sup>

About five months after service to St. Louis Ave. was terminated, on September 23, 2014, Mr. Fisher paid \$50 towards his outstanding account balance, and made a second \$50 payment on November 4, 2014, reducing the total outstanding account balance to \$4,770.05.<sup>67</sup> Although Mr. Fisher testified that the payments, "[were] not honored,"<sup>68</sup> the account activity

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<sup>60</sup> 4 CSR 240-13.050(5) and (8).

<sup>61</sup> 4 CSR 240-13.050(1)(A).

<sup>62</sup> Such as payment of the undisputed portion of the bill or the portion deemed undisputed within four working days of registering the dispute, with failure to make such payment constituting a waiver of the right to continuance of service, 4 CSR 240 13.045(5) and (7).

<sup>63</sup> 4 CSR 240-13.045.

<sup>64</sup> Tr. Vol. 2, p. 80, l. 19 to p. 81, p. 4.

<sup>65</sup> Ex. 205.

<sup>66</sup> Ex. 205, entries dated 2014-03-24 and 2014-04-28.

<sup>67</sup> Ex. 202, entries dated 09/23/2014 and 11/04/2014.

<sup>68</sup> Tr. Vol. 2, p. 24, l. 7-20.

statement reflects that the two \$50 payments were in fact credited against his outstanding account balance, bringing it from \$4,870.05 to \$4,770.05.<sup>69</sup>

**b. Whether Ameren Missouri denied service to Mr. Fisher.**

1. The Company has not denied service to Mr. Fisher. The Company has agreed to reconnect Mr. Fisher's service upon completion of a wiring inspection and receipt of an initial downpayment.

To date, the Company is not providing residential electric service to Mr. Fisher at St. Louis Ave. Mr. Fisher testified that it was wrong that the Company has not restored his service, for a couple of reasons. First, he testified that he had an agreement with Aargon to make payments and believed that if the Company accepted the payments, "[t]hey should have made some provision for me to [] accept the billing and restore my power because access is required if you are a monopoly."<sup>70</sup> However, as Ms. Hart testified, the Company does not know what agreement Mr. Fisher and Aargon may have made. Even if Aargon did make an agreement where Mr. Fisher could pay, over time rather than all at once, the amount Aargon was attempting to collect, Aargon is not permitted under its agreement with the Company to make any arrangements at all concerning service reconnection or to tell someone they can have their service turned back on. The customer has to come to the Company to make those arrangements.<sup>71</sup>

Second, Mr. Fisher argued, generally speaking, that the Company has a fiduciary duty as the monopoly provider of electric service in St. Louis, Missouri: to provide him with power even though he says he cannot pay the bill he has accrued; and to forgive his bill or charge him an amount dictated by his income, because he is a veteran, disabled and impoverished.<sup>72</sup> Because the Company will not do these things, Mr. Fisher argues that the Company is wrongfully denying him access to power.<sup>73</sup> Mr. Fisher did not mention any particular statute, Commission Rule or Commission-approved Company tariff that imposes these duties on the Company.<sup>74</sup> The

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<sup>69</sup> Ex. 205, pg. 5, entry dated 2014-09-23 and 2014-11-21.

<sup>70</sup> Tr. Vol. 2, p. 27, l. 13-22.

<sup>71</sup> Tr. Vol. 2, p. 97, l. 7 to p. 98, l. 6.

<sup>72</sup> Tr. Vol. 2, p. 24, l. 7 to p. 28, l. 13; p. 31, l. 1 to p. 32, l. 4.

<sup>73</sup> *Id.*

<sup>74</sup> To the extent he believes the Constitution entitles him to access to power, and that discontinuance of his service is an unconstitutional deprivation of his rights, the Company notes that the U.S. District Court, in its *Order of Dismissal* in Case No. 4:16-cv-00948-RWS, dismissed Mr. Fisher's claim against Ameren Missouri and the Commission on these grounds for failure to state a claim for which relief could be granted, holding that "[t]o the extent that Fisher's complaint could be construed to assert federal civil rights violations claims under 42 U.S.C.

Company does not have a reduced or special income-based rate that it is able to charge underprivileged groups such as the elderly, low income or disabled, for residential electric service, but must charge all residential customers its 1(M) residential rate.<sup>75</sup> That is the rate the Company charged Mr. Fisher for service to Page, Euclid and St. Louis Ave, as noted on the account activity statements for those accounts. In addition to the strictures of its 1(M) tariff, the Company has a statutory obligation to charge Mr. Fisher the same rates as it charges its other residential electric service customers, and to attempt to collect the charges from those customers and from him. Subsections 393.130.2 and .3 RSMo. expressly *prohibit* electric utilities from directly or indirectly charging, demanding, collecting or receiving *less* (or for that matter, greater) compensation for electric service than the utility charges any other person for a like service under the same or substantially similar circumstances or conditions, and prohibits the utility from granting any undue or unreasonable preference or advantage to any person. Because the Company charges and collects charges from other residential customers for their electric utility service, it must also charge and attempt to collect charges from Mr. Fisher for the service provided to him.

The fact is, the Company has not denied service to Mr. Fisher. A denial of service by definition is a *refusal* by the utility to commence service upon an applicant's request for service at a particular location.<sup>76</sup> When Mr. Fisher called on November 21, 2014 and requested service, which was the first and only time since disconnection that he has requested reconnection,<sup>77</sup> the Company *agreed* to provide service to him: it entered into a Cold Weather Rule payment agreement with Mr. Fisher under which it would turn his service back on after Mr. Fisher made

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§1983 against Ameren, these claims fail because Ameren is not a state actor.” (citations omitted)

<sup>75</sup> Union Electric Company Electric Service Tariff Sheets 54 through 54.2, Service Classification No. 1(M) Residential Service Rate:

1. Rate Application: This rate is applicable to all normal residential service supplied by the Company to individually metered residences...

All service referenced above shall be supplied, metered and billed in accordance with the provisions of paragraph (2.) herein.

<sup>76</sup> 4 CSR 240-13.010(K); 4 CSR 240-13.035(1).

<sup>77</sup> Tr. Vol. 2, p. 57, l. 3 to p. 60, l. 19, discussing five recorded calls between Mr. Fisher and the Company, during which he asks for the amount required for reconnection, is advised of the wiring inspection requirement and the reconnection amount, asks for the Company to forgive his bill, states his home has been vandalized and he cannot get power, and wants to discuss a lawsuit, but does not request service; *see* also Exhibits 205 and 206, call contacts for the original and the second St. Louis Ave. accounts, which reflect only one call requesting reconnection of his service, the November 21, 2014 call, and Exs. 211C, 212C, 213C, 214C and 215C, recordings of calls between the Company and Mr. Fisher regarding 2519 St. Louis Ave.

an initial down payment, and Mr. Fisher agreed.<sup>78</sup> It cannot be a denial of service to agree to reconnect service pursuant to a Cold Weather Rule payment agreement, provided the Company receives payment of an initial downpayment amount, since this is exactly what the Cold Weather Rule permits.<sup>79</sup> The Company even offered, given Mr. Fisher's substantial outstanding balance, to divide the amount remaining outstanding after the initial down payment into twenty-four, rather than the usual twelve,<sup>80</sup> monthly installment payments, in order to lower the amount of each monthly installment payment Mr. Fisher would have to make.<sup>81</sup>

The initial payment under Mr. Fisher's Cold Weather Rule payment agreement, in the form of two pledges from the Urban League, was received by the Company on January 22, 2015.<sup>82</sup> Once the pledges were received, the Company immediately issued a connect order to reconnect Mr. Fisher's service.<sup>83</sup> The Company also set up a new account number for service to Mr. Fisher at St. Louis Ave. and began keeping contacts related to the new account, all of which actions prove the Company's agreement, rather than a refusal, to restore service to Mr. Fisher at St. Louis Ave.<sup>84</sup>

Once the connect order was entered to restore service to St. Louis Ave., the Company determined whether a wiring inspection was required to be conducted prior to restoring service.<sup>85</sup> Since St. Louis Ave. is located in the City of St. Louis ("City"), the Company must comply with applicable provisions of the Electrical Code of the City of St. Louis (the "Code"). Under the Code, if electrical service to a premise has been off for more than six months, the City of St. Louis forbids an electric company from supplying electric current to the premise until the wiring there has been re-inspected.<sup>86</sup> Supplying electric current to a premise where there has not been service for six months and there has not been an inspection is unlawful under the Code, and the City's electrical inspections supervisor may order the electric supplier to immediately disconnect

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<sup>78</sup> Ex. 205, Jerreld Fisher 2519 St. Louis Ave. call contacts, p. 4, note entered 2014-11-21 at 03:48 p.m.

<sup>79</sup> 4 CSR 240-13.055(9)(B): "[t]he utility...shall reconnect service to that customer without requiring a deposit; provided...[t]he utility receives an initial payment and the customer enters into a payment agreement both of which are in compliance with section (10) of this rule[.]" (emphasis added)

<sup>80</sup> 4 CSR 240-13.055(10)(B)(1) and (2).

<sup>81</sup> Tr. Vol. 2, p. 83, l. 15 to p. 84, l. 14.

<sup>82</sup> Ex. 206, Jerreld Fisher 2519 St. Louis Ave. call contacts (second account), p. 6, notes entered 2015-01-22.

<sup>83</sup> Ex. 205, p. 3, note entered 2015-01-22 at 1:04 p.m.; Ex. 208, entry dated 01-23-15.

<sup>84</sup> Tr. Vol. 2, p. 85, l. 8-20; Ex. 206; Ex. 219, Jerreld Fisher 2519 St. Louis Ave. 2<sup>nd</sup> account activity stmt.

<sup>85</sup> Tr. Vol. 2, p. 86, l. 5-9.

<sup>86</sup> Ex. 207, Chapter 25.02, Revised Code of the City of St. Louis, p. 25-2.99, 25.02.050 Annex H, subsection G).

the service.<sup>87</sup> Because Mr. Fisher's service to St. Louis Ave. had been off since April 10, 2014,<sup>88</sup> the Company added a wiring inspection obligation that had to be met before service could lawfully be restored.<sup>89</sup> As a result, the connect order that was issued to go out and connect service was "held" pending completion of the wiring inspection.<sup>90</sup>

It is not a denial of service for the Company to agree to supply service to Mr. Fisher under the Cold Weather Rule Payment agreement with him, but to delay supplying him service until the wiring inspection condition was met. Such a delay in supplying service the Company has agreed to provide is expressly contemplated under a Company tariff:

In supplying service to customers, Company *shall furnish such service* within a reasonable length of time dependent upon the availability of materials, labor and system capacity, and *after all* necessary easements, permits and *approvals are obtained from* the customer and other *governmental and regulatory authorities* having jurisdiction.<sup>91</sup> (emphasis added)

St. Louis Ave. lacked service from April 10, 2014 to November 21, 2014 because the service was disconnected for nonpayment on April 10 and Mr. Fisher did not request reconnection of his service until November 21. From November 21, 2014 through January 22, 2015, the property lacked service because although the Company agreed to provide service under a Cold Weather Rule agreement with Mr. Fisher, the Company did not receive the required initial down payment from Mr. Fisher, or energy assistance pledges in that amount, until January 22. The Company could not restore service on January 22, 2015 because the Company was not legally permitted to restore service until a wiring inspection was obtained.

2. The order to connect Mr. Fisher's service is still in effect, but the property lacks service because Mr. Fisher has failed to obtain the required wiring inspection. Once the wiring inspection is obtained, Mr. Fisher will also need to make a payment toward his outstanding balance.

The status of the connect order is the same today—it is just being held pending completion of the wiring inspection.<sup>92</sup> The property lacks service to this date not because the Company has denied Mr. Fisher service, but first and foremost because Mr. Fisher has still not

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<sup>87</sup> *Id.*

<sup>88</sup> Tr. Vol. 2, p. 76, l. 4-9; Ex. 208, entry dated 04/10/14.

<sup>89</sup> Ex. 205, p. 3, entry dated 2015-01-22, note entitled "Obligation Added";

<sup>90</sup> Ex. 208, Jerreld Fisher 2519 St. Louis Ave. connect order, entry dated 1/23/15, SO (service order) Status column notation, "Held Order"; Tr. Vol. 2, p. 88, l. 9-22.

<sup>91</sup> Ex. 220, Union Electric Company Electric Service Tariff Sheet No. 102 General Rules and Regulations, I. General Provisions, F. Company Obligations.

<sup>92</sup> Tr. Vol. 2, p. 88, l. 23 to p. 89, l. 3.

obtained a City of St. Louis' wiring inspection at St. Louis Ave.<sup>93</sup> It appears from Mr. Fisher's own statements that the failure to obtain a wiring inspection may have been related to Mr. Fisher being out of possession or control of St. Louis Ave. for a significant period of time—from the date it was sold by the City and until he redeemed it—which period appears to have occurred somewhere between January 22, 2015 and May 10, 2016.<sup>94</sup> While it is unfortunate that his being dispossessed of the property may have prevented Mr. Fisher from obtaining a wiring inspection, he cannot plausibly argue that the *Company* denied him service during that period. But for a few weeks in May 2016, at least, Mr. Fisher *did have* the ability to obtain a wiring inspection. He admitted as much in his May 10, 2016 call to the Company where he noted that he had gotten his house back from the City. When reminded of the wiring inspection, he responded, “yes ma’am, I can make that work, no problem.”<sup>95</sup> Though he could have obtained the wiring inspection during that window of opportunity, he failed to do so—essentially denying himself service during that period. Unfortunately, on May 30, 2016, vandals broke into the walls of his house and cut up his electric wiring,<sup>96</sup> which presumably would then have to be repaired before it could pass inspection. As of May 30, 2016, *vandals*, and not the Company, appear to have denied Mr. Fisher access to service. Since then, however, Mr. Fisher has again denied himself service. Mr. Fisher has admitted that he is a, “certified, licensed and bonded electrician...fully qualified to do the repairs in my home[.]”<sup>97</sup> Yet, as of the date of the evidentiary hearing, he has not repaired the wiring, and has not obtained the wiring inspection from the City:

Q. But Mr. Fisher, my question was, you have not obtained a wiring inspection that's been conducted by the City of St. Louis electrical department, correct?

A. Yes, ma’am, that is correct. There's no reason for that. I haven't made the repairs.<sup>98</sup>

In defense of his failure to make the necessary repairs and obtain the wiring inspection, Mr. Fisher argues that the Company should have given him “temporary power” so that he could

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<sup>93</sup> Tr. Vol. 2, p. 92, l. 4-16.

<sup>94</sup> Ex. 211, recorded call on May 10, 2016, at 58 seconds, “My power's been off for quite a while. I had some trouble with the City. They took my house and sold it on the courthouse steps...I got my house back.”

<sup>95</sup> Ex. 211, recorded call on May 10, 2016, at 15 min, 13 seconds.

<sup>96</sup> Ex. 213, recorded call on July 19, 2017, at 1 min, 12 seconds, “On the 30<sup>th</sup> of May, they busted the walls open and...cut up my electric wires....”

<sup>97</sup> Tr. Vol. 2, p. 29, l. 15-25.

<sup>98</sup> Tr. Vol. 2, p. 30, l. 6-11.

make the repairs.<sup>99</sup> However, Mr. Fisher did not point to any provision of the Code, and the Company finds none, that would permit an electrical supplier to provide temporary power to a structure or premise where the power has been off for more than six months, the electrical wiring is known to have been damaged, and no wiring inspection has been obtained.

From the Company's end, the connect order for St. Louis Ave. is simply on hold, pending completion of the wiring inspection, and receipt of payment toward his \$4,770.05 outstanding balance.<sup>100</sup> If Mr. Fisher obtains the wiring inspection during the Cold Weather Rule period of November 1 through March 31, he could enter into a Cold Weather Rule payment agreement with the Company, as he did in November of 2014. Under that agreement, he would need to pay or obtain energy assistance pledge(s) to pay the initial payment calculated pursuant to the Cold Weather Rule and then the remainder of his outstanding balance could be paid over at least twelve months.<sup>101</sup> If Mr. Fisher obtains the wiring inspection and wishes for service to St. Louis Ave. to recommence outside of the Cold Weather Rule Period, he will need to pay 80% of his outstanding balance, or \$3,816.00.<sup>102</sup> After his service is restored, he can also call back and request a payment arrangement to pay the remainder of the outstanding balance in installments.<sup>103</sup>

Just as one of the Company's tariffs permits it to delay commencement of service until approvals are obtained from governmental authorities like the City of St. Louis, and just as the Cold Weather Rule itself conditions reconnection of service on the utility's receipt of the required initial payment, it is proper for the Company (outside of the Cold Weather Rule period) to agree to reconnect his service, but to require payment of a portion (or even all) of Mr. Fisher's outstanding account balance before it commences the service. The Company's tariff addressing reconnection of service provides that where a disconnected customer desires to reconnect service, payment of, "all indebtedness then owed by customer to Company for service supplied

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<sup>99</sup> Tr. Vol. 2, p. 29, l. 15 to p. 30, l. 23.

<sup>100</sup> Tr. Vol. 2, p. 88, l. 23 to p. 89, l. 3. The pledge payments received on the new St. Louis Ave. account in January 2015 had to be returned to the energy assistance agencies in March of 2015, since the service was never restored. Ex. 206, pp. 4 and 5, entries dated 2015-03-11 and 2015-03-12.

<sup>101</sup> 4 CSR 240-13.055; and see the general explanation at Tr. Vol. 2, p. 39, l. 5-21.

<sup>102</sup> Tr. Vol. 2, p. 39, l. 5-11; *see also* Ex. 211, at 4 min. 38 sec., advising Mr. Fisher of the wiring inspection requirement, quoting Mr. Fisher a reconnection amount of \$3,816.00, and advising he can call back after reconnection to make a payment arrangement to pay the remainder in installments.

<sup>103</sup> *Id.*

at customer's current location and for similar service supplied at any other location of customer"...shall be [a] condition[] precedent to such reconnection or connection[.]”<sup>104</sup>

**c. If the Company denied service to Mr. Fisher, whether such denial of service violated any applicable statutes, Commission rules, or Commission-approved Company tariff.**<sup>105</sup>

As discussed in subsection II.b, above, the Company has not denied service to Mr. Fisher. Rather, as permitted under the Commission’s Rules and the Company’s tariffs, the Company has agreed to provide service but has delayed actual reconnection until Mr. Fisher has obtained a wiring inspection and has made an initial payment. In the event, however, that the Commission finds that the Company’s imposition of the wiring and payment pre-conditions to reconnection of Mr. Fisher’s service at St. Louis amounted to a denial of service, the Company takes the position that such denial of service did not violate any applicable statutes, Commission Rules, or the Company’s Commission-approved tariffs.

As detailed in subsection II.a.3, above, when Mr. Fisher requested reconnection on November 21, 2014, he had a delinquent outstanding balance of \$4,770.05, which he had not disputed prior to disconnection of his service for nonpayment on April 10, 2014. The delinquent balance was not in dispute because he had not, as required by 4 CSR 240-13.045(1), registered the dispute with the Company at least twenty-four hours prior to the April 8, 2014 date of proposed discontinuance. The Commission’s Denial of Service Rule specifically permits a utility to refuse to commence service to an applicant for, “[f]ailure to pay a delinquent utility charge for services provided by that utility...that is not subject to dispute under applicable dispute review provisions of 4 CSR 240-13.045[.]”<sup>106</sup> If the Company is found to have denied Mr. Fisher service, then that denial is a proper denial of service under 4 CSR 240-13.045(1).

Under the Rule, a utility also may refuse to commence service, “temporarily for reasons of...safety...until the reason for such refusal has been resolved.”<sup>107</sup> When Mr. Fisher requested reconnection on November 21, 2014, his electrical service had been disconnected for more than six months. As explained in subsection II.b.1, above, the Code requires a wiring inspection after

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<sup>104</sup> Union Electric Company Electric Service Tariff Sheet No. 145 General Rules and Regulations, VII. Disconnection and Reconnection, I. Reconnection of Service.

<sup>105</sup> “List of Issues” (September 19, 2017), EFIS Item 29.

<sup>106</sup> 4 CSR 240-13.035(1)(A).

<sup>107</sup> 4 CSR 240-13.045(4).

six months. The “expressed intent” of the Code, “is to insure public health, safety and welfare insofar as they are affected by the installation and maintenance of electrical systems.”<sup>108</sup> The Company may reasonably infer that it may be electrically unsafe to reconnect service to a residence in the City of St. Louis which has not had service for six months or more, until the wiring inspection has been completed—more so where it knows, as it learned on July 19, 2016, that the wiring in St. Louis Ave. has been cut up, and it has learned from Mr. Fisher’s testimony that it has still not been repaired. If the Company is found to have denied Mr. Fisher service, then the denial is also proper under 4 CSR 240-13.045(4).

In support of his contention that Ameren Missouri unlawfully denied him service, Mr. Fisher offered into evidence Ex. 1, a plain language summary of the Denial of Service Rule published by the Commission on its website.<sup>109</sup> Mr. Fisher did not specify which provision of the Rule he believes the Company has violated. His comment that “[i]t also indicates clearly that is it the burden of proof of the power company to prove anything that was said”<sup>110</sup> indicates that he believes the Company violated 4 CSR 240-13.035(2)(B)1-4, summarized as 2.a. through d. on Ex. 1. However, that section of the Denial of Service Rule is applicable when a utility has refused to provide service to an applicant for that applicant’s failure to pay the bill of *another customer*. In such circumstances, the utility does have the burden to show that the applicant for service received substantial benefit and use of the service, through evidence that the applicant and customer resided together at the premises where the bill was incurred while incurred, the bill was incurred within the last seven years, the utility has attempted to collect the unpaid bill *from the customer of record*, and the bill remains unpaid and not in dispute.<sup>111</sup> In contrast, if the Company has denied service to Mr. Fisher at all, which it denies having done,<sup>112</sup> it was for his failure to pay bills in *his* name, not bills in another customer’s name, for service provided to St. Louis Ave.<sup>113</sup> and Page.<sup>114</sup>

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<sup>108</sup> Ex. 207, p. 25-2.89, Annex H, section 80.1.3.

<sup>109</sup> Ex. 1; Tr. Vol. 2, p. 113, l. 10 to p. 115, l. 20.

<sup>110</sup> *Id.*, p. 113, l. 17-19.

<sup>111</sup> 4 CSR 240-13.035(2)(B)1-4.

<sup>112</sup> See EFIS Item 21.

<sup>113</sup> Ex. 202.

<sup>114</sup> As explained in subsection II.a.2, above, the Company also produced evidence that Mr. Fisher requested service at Euclid in his name, received service and the benefit of service at Euclid including energy assistance towards the Euclid bill, but ultimately, due to payments made on the Euclid account, the amount transferred out of the Euclid account and into the St. Louis Ave. account was all attributable to the outstanding balance that had been transferred into Euclid from Page.

Even if the bills at Page and St. Louis Ave. had not been in Mr. Fisher's name, which they were, the Company's evidence is undisputed and it has met any evidentiary burden under 4 CSR 240-13.045(b)1-4 by proving: the bills have accrued in the last seven years<sup>115</sup>; Mr. Fisher is responsible for the bill for service to Page because he himself requested service to Page,<sup>116</sup> he resided at Page,<sup>117</sup> and service to Page was terminated at his request;<sup>118</sup> he received the benefit of service of St. Louis Ave. after his wife died and before service there was transferred into an account in his name,<sup>119</sup> he lived at St. Louis Ave. from June 11, 2012 through April 10, 2014<sup>120</sup> and received service there during that period, he received several energy assistance pledges towards bills for service to St. Louis Ave. during the period indicating that he resided there;<sup>121</sup> and at no time while service was provided to either of those addresses did Mr. Fisher register a dispute about the bills.<sup>122</sup> In short, Mr. Fisher's claim that the Company has wrongfully denied him service simply fails.

Consistent with its reasonable and good faith belief, based on the application of 4 CSR 240-13-055(9)(B), the Code, Company tariff sheet 102, and Company tariff sheet 145 to the facts, that it did not deny service to Mr. Fisher, the Company did not at any time prior to the filing of the *Complaint* send a written letter to Mr. Fisher informing him of any decision to deny him service. In investigating the Complaint, Staff, however, reached the conclusion that the Company did deny service to Mr. Fisher. Therefore, at Staff's request the Company sent Mr. Fisher a letter on June 23, 2017, outlining what Mr. Fisher needed to do to have his service reconnected.<sup>123</sup> Staff ultimately determined that the Company was in compliance with the

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<sup>115</sup> Ex. 200, Ex. 201 and Ex. 203.

<sup>116</sup> Ex. 209.

<sup>117</sup> Tr. Vol. 2, p. 23, l. 21 to p. 24, l. 6, "a very short time at the 5103 Page address."; *Miscellaneous Correspondence*, (April 28, 2017), EFIS Item 5, filed by Mr. Fisher, p. 1:

Account #35310\_82039

Addition to my bill service to 5103 Page blvd

5/14/2010 -5/2/2011

\$2344.11

(12 days short of a year)

(Lived there boarding house some portion of time)

<sup>118</sup> Ex. 203, p. 1, entry dated 2011-05-02.

<sup>119</sup> Ex. 205, p. 28, entry dated 2012-09-27.

<sup>120</sup> *Correspondence and Photos*, (April 28, 2017), EFIS Item 7, p.2.

<sup>121</sup> Ex. 205, pp. 8-26.

<sup>122</sup> Tr. Vol. 2, p. 80, l. 19 to p. 81, p. 4.

<sup>123</sup> Ex. 100, Schedule 2.

Commission's Denial of Service Rule, including the portion thereof requiring written notice to an applicant upon denial of service.<sup>124</sup>

### **III. Conclusion**

Mr. Fisher has failed to prove that the Company denied him service, or if it did, that the denial violated any statutes, Commission Rules, or Commission-approved Company tariffs. Although the Company does not have the burden of proof, the Company's evidence proves that the Company has complied with applicable statutes, its Commission-approved tariffs, and the Commission's Rules regarding disconnection, reconnection and denial of service, as follows:

- Mr. Fisher is responsible for the bills for service in his name at Page, Euclid and St. Louis Ave. because the evidence shows that he requested service and received the benefit of service at those premises during the periods for which he was billed;
- Mr. Fisher failed to pay the amounts charged to him for the service to Page;
- The Company properly transferred the outstanding balance for service to him at Page to his Euclid account and then on to his St. Louis Ave. account, in accordance with the Commission's Rule 4 CSR 240-13.050(2)(B) and the Company's Tariff Sheet 131.1;
- Mr. Fisher's account for service to St. Louis Ave. became delinquent;
- The Company properly notified Mr. Fisher that his service to St. Louis Ave. would be disconnected for nonpayment in accordance with the Commission's Rules 4 CSR 240-13.050(5) and (8);
- Mr. Fisher did not register a dispute with the Company prior to the advised disconnection date, as required to place an amount in dispute per the Commission's Rule 4 CSR 240-13.045(1);
- The Company properly disconnected his service to St. Louis Ave. for nonpayment of his undisputed delinquent account balance, per the Commission's Rule 4 CSR 240-13.050(1)(A);
- Service to St. Louis Ave. remained disconnected for more than six months;
- The Company agreed to reconnect his service to St. Louis Ave on November 21, 2014;
- Mr. Fisher has not at any other time requested reconnection of service to St. Louis Ave.;
- To date, Mr. Fisher's outstanding balance is \$4,770.05;

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<sup>124</sup> Ex. 100; 4 CSR 240-13.035(1).

- To date, Mr. Fisher has failed to obtain the wiring inspection required by the City's Code;
- The Company has, per the City's Code, the Company's Tariff Sheet 102; 4 CSR 240-13.055(9)(B) and the Company's Tariff Sheet No. 145, properly delayed reconnection, until Mr. Fisher:
  - obtains the wiring inspection required by the City's Code; and:
    - if during the Cold Weather Rule Period, has paid an initial payment amount or obtained pledges in the amount of the initial payment as calculated under the Cold Weather Rule and has entered into a Cold Weather Rule payment agreement with the Company;
    - or if not during the Cold Weather Rule period, has paid at least \$3,816.00, constituting a portion of the outstanding balance for St. Louis Ave., and if he desires, entered into a payment arrangement to pay the remainder of the outstanding balance.

Mr. Fisher is not entitled to any relief, because the Company has not violated any statute, Commission Rule or Commission-approved Company tariff.

Accordingly, the Commission should enter an order denying Mr. Fisher's Complaint on the merits.

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Motion for Continuance was served on all of the following parties via electronic mail (e-mail), on this 31<sup>st</sup> day of October, 2017.

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