

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 15th day of
March, 2006.

Richard D. Smith,)	
)	
Complainant,)	
)	
v.)	<u>Case No. EC-2007-0106</u>
)	
Union Electric Company d/b/a)	
AmerenUE,)	
)	
Respondent.)	

**ORDER DENYING MOTION FOR RECONSIDERATION AND PROVIDING
CLARIFICATION**

Issue Date: March 15, 2007

Effective Date: March 25, 2007

On September 19, 2006, Richard D. Smith filed a complaint with the Commission against Union Electric Company d/b/a AmerenUE (“AmerenUE”).¹ Notice of the complaint was issued to AmerenUE on September 20, 2006, and AmerenUE filed its answer to the complaint on October 20, 2006. A prehearing conference was held on December 6, 2006 and a technical conference was held on February 1, 2007.

¹ Although Mr. Smith’s action was filed as a complaint, his requested relief includes a request for a change of service provider from AmerenUE to Black River Electric Cooperative (“Black River”). Because Black River has an interest in this matter that could potentially be affected by the Commission’s decision, it was added as a party to this action.

On February 14, 2007, the Commission's Staff filed a "Joint Report of the Parties After Technical Conference." The parties jointly agreed that AmerenUE would commit to certain milestones to improve service to Mr. Smith. Those milestones included completion of a substation and reconductoring of certain lines. The parties further agreed that within five days of each of the designated milestones, AmerenUE would file with the Commission a report stating whether or not it has met the projected completion date for that milestone and, if not, when AmerenUE expected that milestone to be completed. For any missed completion dates, AmerenUE would file a supplemental report within five days of the actual completion date of that milestone. The parties anticipated that these scheduled improvements would eliminate the basis for Mr. Smith's complaint and planned to request closing this case following AmerenUE's December 2008 report.

Because it is not the policy of this Commission to keep complaint cases open on the Commission's docket indefinitely, and because the parties had unanimously made this request and believed it to be the best procedure to follow towards resolving this complaint, on February 27, 2007 the Commission adopted the parties' agreement as the resolution of Mr. Smith's complaint and ordered the case to be closed. The Commission emphasized in its order that should any of the parties wish to revive the complaint and further proceed, the party need only to file a pleading with the Commission explaining the reasons for the pursuing the action.

On March 9, 2007 the Office of the Public Counsel ("OPC") filed a timely motion for reconsideration or clarification. OPC fears that designating the case as being closed will frustrate the active oversight of the agreement and seeks reconsideration or clarification as to how the scheduled filings are to be made. In its motion, OPC noted:

The Commission adopted the parties' resolution in an order issued February 27, including the requirement (agreed upon by the parties) that AmerenUE will make regular filings. But the Commission also ordered the case be closed, despite these required filings. The first such filing will (as EFIS is understood to work) automatically re-open the case. If the Commission wants the case to remain closed, it will have to issue a notice closing it. It will then be automatically re-opened again in a few weeks when AmerenUE makes its next filing, and so on.

The passage from OPC's motion describes exactly the result the Commission desired. The designation of closing the case from the Commission's docket was merely a ministerial act that does not, as emphasized in the February 27 order, in any way preclude any party from future filings that would update the status of this case or revive the complaint should any party become dissatisfied with the progression of the joint solution that was adopted. Each subsequent filing under this case number would serve to alert the assigned Regulatory Law Judge, as well as the Chief Regulatory Law Judge, of every action in this matter, *i.e.* supplying the necessary oversight required by the Regulatory Law Judge. Nor does designating the case as being closed in any way preclude additional active oversight by Mr. Smith, the Commission's Staff or OPC, all of whom need only file a single pleading with the Commission to reactivate the complaint process.

For clarification purposes, the Commission will direct that any further pleadings, including AmerenUE's scheduled status reports, should be filed under this same case number. Any subsequent filings under this case number shall reopen the case in the Commission's electronic filing system and will apprise the Regulatory Law Judge and the Chief Regulatory Law Judge of the progress in this matter. This provides the best assurance that the case will be continually monitored, even in the event that the case would be reassigned by the Chief Regulatory Law Judge, especially given the lengthy

period of time in which AmerenUE is expected to file status reports. The motion for reconsideration will be denied.

IT IS ORDERED THAT:


1. The Office of the Public Counsel's Motion for Reconsideration is hereby denied.

2. All future filings or pleadings in this matter shall be filed under the same case number, EC-2007-0106. No new case shall be opened with any subsequent case filings pertaining to this complaint.

3. This order shall become effective on March 25, 2007.

4. The case shall be closed on March 26, 2007.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', is written over a horizontal line.

Colleen M. Dale
Secretary

(S E A L)

Davis, Chm., Murray, Gaw, Clayton and Appling, CC., concur

Stearley, Regulatory Law Judge