STATE OF MISSOURI PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 1st day of September 2010.

Peter B. Howard,

Complainant,

٧.

File No. EC-2010-0285

Union Electric Company d/b/a AmerenUE,

Respondent.

ORDER DISMISSING COMPLAINT WITHOUT PREJUDICE

Issue Date: September 1, 2010

Effective Date: September 13, 2010

The Missouri Public Service Commission is dismissing without prejudice the

complaint of Peter B. Howard for failure to comply with a Commission order.

Procedure

Mr. Howard filed the complaint on April 13, 2010, alleging billing errors for February

22, 2010, through March 23, 2010; and inadequate response to his service calls. On

May 3, 2010, AmerenUE filed its answer.¹ Staff filed its recommendation on June 10, 2010.²

¹ AmerenUE's answer included a motion to dismiss. AmerenUE's theory is that the complaint constitutes an untimely motion for rehearing in File No. EC-2008-0329, in which Mr. Howard alleged billing errors for a period ending in 2008. This *Order Dismissing Complaint without Prejudice* makes a ruling on that motion unnecessary.

² Staff's recommendation asks the Commission to clarify whether regulations with 4 CSR 240-3 conflict with one another. But the Commission's order in a contested case resolves nothing for any other case. Staff may want to consider a petition for rulemaking with suggested language to resolve the regulatory issues it raises.

Findings of Fact

1. On June 11, 2010, to facilitate the processing of the complaint, the Commission sent Mr. Howard a reply form and a letter asking Mr. Howard to file the reply no later than June 25, 2010.

2. On July 9, 2010, the Commission sent Mr. Howard a letter asking Mr. Howard to file the reply form no later than July 23, 2010.

3. On July 29, 2010, the Commission ordered Mr. Howard to show cause why the Commission should not dismiss the complaint.

4. On August 11, 2010, at Mr. Howard's request, the Commission extended the time

for responding to the Commission's show-cause order to August 26, 2010.

5. As of the date of this order, Mr. Howard has not responded to the Commission's

show-cause order and has not filed the reply form.

Conclusions of Law

The Commission may dismiss a complaint for failure to comply with an order of the

Commission. The Commission's regulations provide:

The commission, on its own motion . . . , may after notice dismiss a complaint for . . . failure to comply with . . . an order of the commission $[;^3]$

and:

A party may be dismissed from a case for failure to comply with any order issued by the commission [.⁴]

Those regulations apply to Mr. Howard because Mr. Howard failed to comply with the

Commission's order.

The Commission's regulations also provide:

A case may be dismissed for good cause found by the commission after a minimum of ten (10) days notice to all parties involved. [⁵]

That regulation also applies because failure to comply with the Commission's order is good

cause for dismissal.

For those reasons, the Commission will dismiss the complaint without prejudice.

THE COMMISSION ORDERS THAT:

- 1. The complaint is dismissed without prejudice.
- 2. This order shall be effective on September 13, 2010.
- 3. The Commission's Data Center shall close this file on September 14, 2010.

BY THE COMMISSION

Steven C. Reed Secretary

(SEAL)

Clayton, Chm., Davis, Jarrett, Gunn and Kenney, CC., concur.

Jordan, Regulatory Law Judge

³ 4 CSR 240-2.070(6). ⁴ 4 CSR 240-2.116(3). ⁵ 4 CSR 240-2.116(4).