

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

Peter B. Howard,)	
)	
Complainant,)	
)	
vs.)	<u>Case No. EC-2010-0285</u>
)	
Union Electric Company, d/b/a)	
AmerenUE,)	
)	
Respondent.)	

STAFF RECOMMENDATION

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and for its Staff Recommendation states as follows:

The Current (2010) Complaint

1. On April 13, 2010, Peter Howard filed a formal complaint (the 2010 Complaint) with the Missouri Public Service Commission (the Commission) against Union Electric Company, d/b/a AmerenUE (AmerenUE or the Company), disputing certain electric utility charges incurred at his service address and requesting that his residential customer charges be modified to reflect what Mr. Howard believes to be his actual usage. Mr. Howard also alleges unprofessional conduct by AmerenUE customer service personnel.

2. AmerenUE has filed an Answer and Motion to Dismiss, generally denying any impropriety and further requesting that the matter be dismissed as untimely filed. Staff has been ordered to conduct an investigation and to file a recommendation.

The Previous (2008) Complaint

3. On April 9, 2008, Mr. Howard filed a formal complaint (the 2008 Complaint) with the Commission, disputing the electric charges incurred at his service address and requesting

both a meter exchange and an adjustment to his outstanding balance in order to reflect what Mr. Howard believed to be his actual usage. This matter was designated by the Commission as Case No. EC-2008-0329.

4. An evidentiary hearing was held on August 7, 2008, at which time Mr. Howard appeared by telephone. The Commission issued a Report and Order on December 11, 2008, concluding that Mr. Howard had failed to sustain his burden of proof and denying his request for relief.

Staff's Investigation and Findings

5. Staff has investigated the allegations contained in Mr. Howard's 2010 Complaint. In the course of this investigation Staff communicated directly with Mr. Howard and AmerenUE personnel. In addition, Staff reviewed Mr. Howard's account and billing data, information regarding communications between Mr. Howard and AmerenUE customer service personnel, and both the facts presented and the decision reached in Mr. Howard's 2008 Complaint. The Report of the Staff, included all referenced schedules, is attached to this pleading as Appendix A and is incorporated by reference herein.

6. Based upon Staff's investigation Staff believes that the majority of Mr. Howard's outstanding balance is directly related to Mr. Howard's failure to honor the terms of a payment arrangement that was entered into by Mr. Howard and the Company following the Commission's decision on Mr. Howard's 2008 Complaint. Staff believes the remainder to the balance can be attributed to circumstances, and corresponding usage, virtually identical to those explored in depth and decided by the Commission in the 2008 Complaint, albeit for a more contemporaneous period. This conclusion is similar to that expressed by the Company in its Answer and Motion to Dismiss.

7. Regarding Mr. Howard's customer service allegations, Staff represents that while it has no means of conclusively determining the merits of those allegations that information provide by AmerenUE in the course of Staff's investigation indicates that unless Mr. Howard has called from another location that he has not been placed on hold for more than 2 minutes and 14 seconds since December of 2009.

Staff's Conclusion and Recommendation

8. Unless Mr. Howard can supply some new evidence to support his allegations, Staff must conclude that the type of facts presented in the 2010 Complaint are identical to the type adjudicated in the 2008 Complaint and, therefore, that Mr. Howard's request for relief should be similarly denied.

9. In addition, Staff would note that this case exemplifies a conflict, or at least a lack of clarity, that Staff perceives to exist between separate provisions of Chapter 13. Specifically, 4 CSR 240-13.045(4) and 4 CSR 240-13.045(10) provide, respectively, that "[c]ustomers presenting *frivolous disputes* shall have no right to continued service..." (emphasis added) and that utilities need not adhere to certain disconnection procedures when presented a complaint containing the same facts as those previously determined by the Commission. Despite these provisions, 4 CSR 240-13.050(5) provides a safe haven from utility service disconnection by virtue of filing a complaint disputing utility charges.

10. Staff believes that this dispute may be "frivolous dispute" as that term is used in Chapter 13, in that such complaint may have been filed in an attempt to circumvent a known obligation.

WHEREFORE, Staff recommends the Commission issue an order either (1) dismissing this matter without hearing under the authority of Commission Rule 4 CSR 240-2.070(6) or (2)

directing Mr. Howard to present, at hearing or otherwise, new or additional evidence that may substantiate his allegations. Staff further requests clarification on the application of the above-cited provisions of Chapter 13, should the Commission so choose to provide that direction in the context of this case.

Respectfully submitted,

/s/ Eric Dearmont

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 10th day of June, 2010.

/s/ Eric Dearmont