

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

Jimmie E. Small,

Complainant,

v.

Ameren Missouri, et. al.,

Respondents.


**File No. EC-2012-0050**

**NOTICE OF RECOMMENDED ORDER**

Issue Date: July 18, 2013

The regulatory law judge is issuing a recommended *Order Dismissing Complaint*. The attached recommended order is subject to comments from any affected party filed within ten days of this recommendation's issuance under Commission Rule 4 CSR 240-2.070(15)(H). The final *Order Dismissing Complaint* has not yet been issued, but may be issued by the Commission at a subsequent agenda meeting.

**BY THE COMMISSION**



Morris L. Woodruff  
Secretary

Michael Bushmann, Regulatory Law Judge  
by delegation of authority pursuant to  
Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 18<sup>th</sup> day of July, 2013.

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service  
Commission held at its office in  
Jefferson City on the [ ]<sup>th</sup> day of  
[ ], 2013.

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**File No. EC-2012-0050**

**ORDER DISMISSING COMPLAINT**

Issue Date: [ ], 2013

Effective Date: [ ], 2013

Jimmie Small filed a complaint with the Missouri Public Service Commission ("Commission") on August 15, 2011, alleging primarily that Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") and other parties acted illegally with regard to the disconnection of utility services at Mr. Small's residence in Kirksville, Mo. during 2006-2008. On October 5, 2011, the Commission issued an order dismissing some of the parties and claims, leaving the general claim that Ameren Missouri allegedly discriminated against Mr. Small in disconnecting service. On March 2, 2012, the Commission issued another order denying Ameren Missouri's motion to dismiss and Mr. Small's motion for summary disposition, injunctive relief, transfer to federal court, relief under federal claims, and issues related to safety standards. Mr. Small's motion for reconsideration was denied on March 14, 2012, which he appealed to the Western District Court of Appeals. That appeal

was dismissed on May 2, 2012, and the Commission scheduled an evidentiary hearing for June 13, 2012, which was subsequently postponed at Mr. Small's request. On October 25, 2012, Mr. Small filed a motion requesting summary determination and making a specific allegation that Ameren Missouri disconnected his utility service in violation of the Commission's Cold Weather Rule. The Commission denied the request for summary determination, but considered the motion a request to amend his complaint to identify a specific Commission rule that was violated in disconnecting his electric service. The Commission granted the request to amend the complaint. The Commission also denied Mr. Small's subsequent request for summary determination. An evidentiary hearing scheduled for March 12, 2013 was not held because on March 11, 2013, Mr. Small filed another appeal to the Western District, which was later dismissed on May 29, 2013.

An evidentiary hearing was scheduled for July 18, 2013 beginning at 9:30 a.m., and Mr. Small was provided notice of that hearing by delivery to his address of record by United Parcel Service with delivery confirmation. Mr. Small was also provided notice by the same method of a telephone number through which he was entitled to appear at the evidentiary hearing by telephone. Ameren Missouri and the Commission's Staff appeared for the evidentiary hearing by their counsel. Mr. Small did not appear in person or by telephone, and his motion for continuance filed on the day of the hearing was denied.

On July 18, 2013, the Commission issued a notice of this recommended order pursuant to Commission Rule 4 CSR 24-2.070(15(H), which provided any affected party ten days to oppose the recommended order. Ten days have elapsed and no response has been filed.

Two Commission rules deal with the failure of a party to appear for an evidentiary hearing. First, Commission Rule 4 CSR 240-2.116(3) provides as follows:

A party may be dismissed from a case for failure to comply with any order issued by the commission, including failure to appear at any scheduled proceeding such as a public hearing, prehearing conference, hearing, or mediation session.

Second, Commission Rule 4 CSR240-2.110(2)(B) provides that:

Failure to appear at a hearing without previously having secured a continuance shall constitute grounds for dismissal of the party or the party's complaint, application or other action unless good cause for the failure to appear is shown.

Mr. Small failed to appear for the scheduled evidentiary hearing and failed to show good cause for not appearing.

In addition, Commission Rule 4 CSR 240-2.116(4) states that “[a] case may be dismissed for good cause found by the commission after a minimum of ten (10) days notice to all parties involved”. The Commission has attempted to provide Mr. Small an opportunity to present the allegations in his complaint at an evidentiary hearing on three occasions, but has been prevented from holding those hearings through Mr. Small's own actions. The Commission, Commission Staff, and other parties have expended considerable time and resources in responding to this complaint case, but Mr. Small's behavior indicates that he is not serious about pursuing his complaint. Mr. Small failed to provide an adequate explanation within the ten-day response period for not appearing at the hearing, so the Commission concludes that there is good cause to dismiss the complaint. Therefore, as provided by the Commission's rules, his complaint will be dismissed without prejudice.

**THE COMMISSION ORDERS THAT:**

1. The complaint of Jimmie Small is dismissed without prejudice.

2. This order shall become effective on [ ], 2013.
3. This file shall be closed on [ ], 2013.

**BY THE COMMISSION**

Morris L. Woodruff  
Secretary

Bushmann, Regulatory Law Judge