

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

| | | |
|----------------------------------|---|-------------------------------------|
| David K Aziere, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | <u>File No. EC-2021-0375</u> |
| |) | |
| Co-Mo Electric Cooperative, Inc. |) | |
| |) | |
| Respondent |) | |

**ORDER GIVING NOTICE OF COMPLAINT
AND DIRECTING A RESPONSE**

Issue Date: April 30, 2021

Effective Date: April 30, 2021

On April 26, 2021, David Aziere filed a complaint with the Missouri Public Service Commission against Co-Mo Electric Cooperative, Inc. (Co-Mo Electric). Mr. Aziere's complaint is that Co-Mo Electric placed a utility pole on his property that obstructed the entrance to his property. Mr. Aziere's complaint sets forth in writing Co-Mo Electric's alleged violations sufficient to meet the minimal requirements of Section 386.390, RSMo.

As required by Section 536.067(2)(f), RSMo, the Commission informs the parties that the Commission's provisions governing procedures before the Commission are found at Commission Rule 20 CSR 4240-2. Specific provisions relating to discovery are found at Commission Rule 20 CSR 4240-2.090. Commission Rule 4 CSR 240-2.070(15)(A) provides Co-Mo Electric 30 days to file a response to this complaint.

Section 386.020(43) defines a "public utility" to include every pipeline corporation, gas corporation, electrical corporation, telecommunications company, water corporation, heating company or refrigerating corporation, and sewer corporation, as defined in Section 386.020 RSMo, and those public utilities are subject to the jurisdiction, control

and regulation of the Commission. The Commission has no jurisdiction over entities that are not public utilities.

Section 393.160.1 RSMo, concerning subject matter jurisdiction,¹ provides that nothing in the contained shall be construed as otherwise conferring upon such Commission jurisdiction over the service, rates, financing, accounting or management of any such cooperative. However, that section also provides:

The jurisdiction, supervision, powers and duties of the public service commission shall extend to every such cooperative so far as concerns the construction, maintenance and operation of the physical equipment of such cooperative to the extent of providing for the safety of the public and the elimination or lessening of induction or electrical interference, including the power to minimize retail distribution electric line duplication for the sole purpose of providing for the safety of employees and the general public in those cases when, upon complaint, the commission finds that a proposed retail distribution electric line cannot be constructed in compliance with commission safety rules.

Because the Commission has insufficient information to determine if the construction and placement of the utility pole is not in compliance with the Commission's safety rules and is a safety risk to the employees of Co-Mo Electric and the general public, it is unable to determine if this is one of the rare instances where it would have explicit statutory jurisdiction over Co-Mo Electric. Therefore, the Commission will order its Staff and Co-Mo Electric to file pleadings regarding the Commission's jurisdiction over this complaint.

¹ Missouri recognizes two types of jurisdiction: personal jurisdiction, which is not at issue, and subject matter jurisdiction, which is the authority to order relief. *J.C.W. ex rel. Webb v. Wyciskalla*, 275 S.W.3d 249, 252-54 (Mo. banc 2009).

THE COMMISSION ORDERS THAT:

1. The Commission's Data Center shall send, by certified mail, a copy of this notice and order and a copy of the complaint to Co-Mo Electric at:

Co-Mo Electric Cooperative, Inc.
Legal Department
P.O. Box 220
29868 Highway 5
Tipton, Missouri 65081

2. The Commission's Staff and Co-Mo Electric shall file pleadings addressing the Commission's jurisdiction over this complaint no later than June 1, 2021. Mr. Aziere may respond by the same date if he wishes to do so.

3. The Commission's Data Center shall send a copy of this notice and order to Mr. Aziere.

4. This order is effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

John T. Clark, Senior Regulatory Law Judge,
by delegation of authority pursuant to
Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 30th day of April, 2021.