

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

TUCKER SHELL, LLC

Complainant

v.

UNION ELECTRIC COMPANY  
D/B/A AMERENUE

Defendant.

CASE NO. EC-2011-0233

FIRST AMENDED COMPLAINT

COMES NOW Complainant, Tucker Shell, LLC, by and through its attorneys, BETH C. BOGGS, MARCUS K. GNADE and BOGGS, AVELLINO, LACH & BOGGS, L.L.C., and for its First Amended Complaint against AmerenUE states as follows:

1. Defendant, AmerenUE, is an electric corporation under Section 386.020(15) RSMo 2000 and, as such, is a public utility subject to the jurisdiction of the Missouri Public Service Commission (Commission) pursuant to Section 386.250 RSMo 2000.

2. On September 28, 2008, Complainant, Tucker Shell, LLC, operated a gas station located at 721 North Tucker, St. Louis, Missouri 63101.

3. Defendant owns and/or controls and maintains the electrical lines (underground lines located in the sewer) in the area of Complainant's gas station.

4. Defendant had a duty to use a reasonable degree of care in inspecting and maintaining the electrical lines in the area of Complainant's gas station

5. Defendant, disregarding and breaching its aforesaid duty, was guilty of one or more of the following negligent acts or omissions:

- a. Failing to inspect the electrical lines in the area of Complainant's business pursuant to 4 CSR 240.23.020 (3) (H)

- b. Failing to maintain the electrical lines in the area of Complainant's business pursuant to 4 CSR 240.23.020 (3) (H) and/or 4 CSR 240-18.010 (1) (Specifically, Part 3 of the National Electric Safety Code); and
- c. Was otherwise careless and negligent.

6. As a direct and proximate result of one or more of the foregoing acts or omissions, the electrical lines located behind Complainant's gas station caught fire, and caused an explosion.

7. As a direct result of the fire and explosion, Complainant's gas station lost power, and various items were damaged inside the business, including but not limited to the cash register, computer system, ATM, and outside canopy lights.

8. As a direct result of the fire and explosion, Complainant's business was closed from 2:00 p.m. on September 28, 2008 until 3:30 a.m. the following day.

9. As a direct result of Defendant's negligence, Complainant incurred the sum of \$33,245.26 in property damages to the business.

10. As a direct result of Defendant's negligence, Complainant incurred the sum of \$3,748.60 in lost income due to the closure of the business.

WHEREFORE, Complainant respectfully requests the Commission find that AmerenUE was negligent in the inspection and maintenance of the electrical lines as stated above, and further requests the Commission authorize Plaintiff to seek civil penalties in Circuit Court and order such other and further relief as the Commission may find just and reasonable.

Respectfully submitted,

TUCKER SHELL, LLC

By: 

Beth C. Boggs, #43089

Marcus K. Gnade, #51667

BOGGS, AVELLINO, LACH & BOGGS, L.L.C.

7912 Bonhomme, Suite 400

St. Louis, MO 63105

(314) 726-2310 - Phone

(314) 726-2360 - Fax

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was forwarded, via the United States Postal Service, first-class mail, postage prepaid, and facsimile this 23RD day of March, 2011, to:

Jennifer Hernandez  
Annette Slack  
Staff of the Missouri Public Service Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
[jennifer.hernandez@psc.mo.gov](mailto:jennifer.hernandez@psc.mo.gov)  
[annette.slack@psc.mo.gov](mailto:annette.slack@psc.mo.gov)

Lewis Mills  
Office of Public Counsel  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102  
[opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov)

Sarah E. Giboney  
Smith Lewis, LLP  
Attorneys at Law  
P.O. Box 918  
Columbia, MO 65205  
[giboney@smithlewis.com](mailto:giboney@smithlewis.com)  
573-442-6686- Fax

