

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

JIMMIE E. SMALL,
Complainant,

Vs.

UNION ELECTRIC CO. d/b/a
Ameren Missouri,
Respondent.

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Case No: EC-2015-0058

RULE 55.33(b)AMENDMENTS TO CONFORM TO THE EVIDENCE;
MOTION FOR LEAVE TO SUPPLEMENT COMPLAINANT'S APRIL 20,
2015 TESTIMONY BY ADDING RELEVANT RESPONDENT'S
ADMISSIONS AND RESPONSES
SERVED AND CERTIFIED APRIL 16, 2015

COMES NOW the Complainant and for his Leave motion to supplement the April 20, 2015 testimony of Complainant, states unto the Hon. Commission, ALJ, the following particulars;

1. Complainant could not reasonably have testified to Respondent's April 16, 2015 Admission as to DATA REQUEST RESPONSE # 9, simply because the Out-of-State resident Small did not receive NOTICE of Respondent's Data Request response until after April 20, 2015 hearing on the merits, No. EC-2015-0058.
2. Respondent Ameren Missouri's DATA REQUEST response # 9, appears to be consistent with the sworn testimony of Kathy Hart, on April 20, 2015 [record] to the effect that 16 Notices [Complainant's marked exhibit #1 account 2009 & 2018] plus the September 08, 2014 NOTICE placed in

evidence, [Account Billing] did not notify CP Small of a CRAFT required statement informing CP Small of his legal right to a pre-deprivation or pre-termination of services on September 08, 2014 under CRAFT applicable standards. **See MEMPHIS LIGHT, GAS & WATER DIV. v. CRAFT**, 436 U.S. 1 (1978).

3. While the CRAFT decision was decided back in 1978, Respondent Union Electric Company, d/b/a Ameren Missouri does not appear to have developed a written due process NOTICE for residential customers or applicants for service, stating clearly that a face-to-face deprivation hearing is available upon request by an aggrieved person seeking electrical service and accommodations on August through September 08, 2014 critical service time periods.
4. According to DATA REQUEST #9, [RESPONSE] Union Electric Company, d/b/a Ameren Missouri, states [**No such Ameren Missouri document exist**]. Does not exist since 1978 ??? some 36 years after the CRAFT, U.S. Supreme Court decision.
5. 36 years following the CRAFT U.S. Supreme Court Decision, 436 U.S. 1, Union Electric Company [Management] appears to have implemented a 1-800 grievance number for Billing complaints, and continues to use the 1-800 Phone CALL system while disregarding the NOTICE REQUIRED provision of Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314, 70 S. Ct. 652, 94 L. Ed 865 (1950) ; Walker v. City of Hutchinson, Kan., 352 U.S. 112, 115, 77 S. Ct. 200, 1 L Ed 2d 178 (1956); Fuentes v. Shevin, 407 U.S. 67, 80, 92 S. Ct. 1983, 32 L Ed 2d 556 (1972).

The U.S. Const. amend. 14; Mo. Const art 1, sect 10 prohibit states from depriving persons of property without due process of law.

Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified. Fuentes 407 U.S. 67.

A Final Bill dated 04/23/2008 by Ameren Utility was entered into evidence by Respondent on April 20, 2015. Ameren Mo. now desires to collect Money property from Customer Jim Small, in the form of Kirksville Mini Tax, without NOTICE OF RIGHT TO DUE PROCESS HEARING WITH (a) Respondent Union Electric Corporate Management (b) WITHOUT NOTICE OF RIGHT TO A DUE PROCESS HEARING BEFORE KIRKSVILLE CITY MANAGEMENT TO CONTEST SAID ILLEGAL TAX LEVIED AGAINST AN OUT-OF-STATE, DISABLED VIET VET, and continuing as a wrongful policy, practice and custom, placing MONEY PROPERTY at issue and without due process of law under CRAFT applicable standards. CRAFT, 436 U.S. 1.

6. City of Kirksville, a municipality entered into an unconstitutional franchise agreement with UE.AM.MO. which has permitted Union Electric Company to circumvent CRAFT standards since 1978 and continuing as a wrongful governmental policy, practice and custom with no timely NOTICE of right to appeal said unconstitutional governmental conduct with MANAGEMENT. See. 42 U.S.C. sect 1983; 1985(3) conspiracy to deprive due process rights since the 1978 Craft decision and continuing in 2015 unresolved.
7. That the acts, conduct and omission to protect complained of were also unconstitutional under the US. Constitution, Commerce Clause. Art 1, section 8 cl 3. See State ex rel Bloomquist v. Schneider, 244 S.W. 3d 139 (2008)

8. Illegal Taxation reflected on Respondents 04/23/2008 "Final Bill" imposes an impermissible burden upon the undersigned disabled applicant on September 08, 2014 and continuing unresolved. Evidence of unconstitutional taking of [Money] property without due process of law adverse to an OUT-Of-State person.
9. Union Electric Company services some 2,400,000 Missouri customers according to public access records.
10. Respondent Collection of Money Property involving some 2,400,000 customers by unlawful means of unconstitutional 1-800 Call Systems is presently in evidence before MPSC enforcement or regulatory authority, under Missouri jurisdiction.
11. Multiplying 846 x 2,400,000 electrical customers, would appear to involve Money Property, far beyond the scope of SMALL Claims jurisdiction.
12. Out-of-State persons venturing into Missouri state and venturing into Kirksville , Mo. jurisdiction have due process and equal protection rights similar to Missouri residents seeking the benefits of electrical power under the Federal Powers Act, a Federal law. See also, Jones v. Flowers, ____ U.S. ____, 126 S. Ct. 1708, 164 L. Ed 2d 415 (2006).
13. The unconstitutional use of 1-800 numbers dealing with aggrieved customer or applicant's disputes, * * * appears to require (a) Union Electric First and (b) City of Kirksville government [second] to provide a pre-deprivation NOTICE on or about September 08, 2014, to and including a face-to face due process hearing to prove Kirksville Mini-tax is unconstitutional, as applied to Account Nos. 34433-02009; No. 34433-07018.

14. On 04/20/2015 Respondent elected to offer account records 2009- and 34433-07018 after altering Ameren's account records, by materially altering relevant evidence created by Customer Service LuAnn to Annette Sweet, Ext 52740 (Green Hills District) dated then sent to Customer Small on Thursday, August 05, 2010, 11:39 AM.
15. This evidence was intentionally withheld by Kathy Hart, and Ameren Missouri, on April 20, 2015 to intentionally mislead the Commission ALJ Jordan and to influence a Commission decision in No. EC-2015-0058, further imposing an impermissible evidence burden upon the Out-Of-State Customer Small [pro se] and to retaliate against Small for his acts in filing a January 30, 2013 formal complaint against AMEREN MISSOURI, 1901 Chouteau Ave, St Louis, Mo. based on Retaliation. The Particulars of the 01/30/2013 complaint states; I.[Ameren Missouri is threatening me and my witnesses in retaliation for my filing a complaint against them with the Missouri Public Service Commission (see attached) II. As remedy, I Want whatever relief the Commission (MCHR) deems just and proper. s/s Jim Small. Filed stamped 01/30/2013.
16. This motion to supplement Commission record, No. EC-2015-0058 should be granted, because tampering with Ameren Missouri's account records, by deleting, excising, altering account records No. 34433-07018 by Kathy Hart, followed by Hart's sworn testimony knowingly and intentionally excluded relevant evidence of the August 05, 2010 record evidence drafted by LuAnn, Issued by ANNETTE SWEET.
17. Respondent Ameren Missouri MANAGEMENT , material witness Kathy Hart knew that her testimony concerning Defendants Exhibits 1 HC and 2 HC, had deleted and materially withheld evidence, from the Commission,

thus imposing an impermissible burden on CP Small, in violation of the United States Constitution, Commerce Clause, art. 1, section 8, cl 3. See *Bendix Autolite Corp. v. Midwesco Enterprises, Inc.*, 486 U.S. 888, 108 S. Ct. 2218, 100 L. Ed 2d 896 (1988). Respondent's acts engaged to alter material account record NO. 34433-07018 and breached Ameren Co.s duty to provide honest testimony on April 20, 2015 and further imposes differential treatment upon the pro se Complainant a disabled veteran, Out-of-State party in violation of the U.S. Constitution, Commerce Clause. Art 1, sect. 8 cl 3. See Also, V.A.M.S. sect 213. Retaliation is prohibited in Missouri. Perjury through Respondent MANAGEMENT [Hart] on 04/20/2015, does not result in a fair and impartial proceeding on the merits. No. EC-2015-0058; Breached the Due Process and equal protection clause under **MEMPHIS LIGHT, GAS & WATER DIV. V. CRAFT**, 436 U.S., 21-22, 98 S. Ct. 1554, 56 L. Ed 2d 30 (1978).

SUGGESTIONS IN SUPPORT

Other cases recognize that the fact plaintiffs could seek injunctive relief is not a substitute for a pre-deprivation hearing. See, e.g., *Young v. Brashears*, 560 F2d 1337 (7th Cir 1977); *Klein v. Califano*, 586 F2d 250 (3d Cir. 1978); *Reardon v. U.S.* 947 F2d 1509 (1st Cir. 1991); *Skeets v. Johnson*, 805 F. 2d 767 (8th Cir. 1986)

18. U. E. Utilities complete failure to provide timely CRAFT NOTICE mandate on or about September 08, 2014, did impose an impermissible burden upon Cp Small a known Out-Of-State Iowa resident. In all but the narrowest circumstances, state law violates the Commerce Clause if they mandate differential treatment of in-state and out-of-state interest that benefits the former and burdens the latter. U.S.C.A. Const Art 1, sect 8, cl 3.

State ex rel BLOOMQUIST v. SCHNEIDER, 244 S.W. 3d 139 (Mo. banc 2008). On Thursday August 05, 2010, 11:39 AM From LuAnn to ANNETTE SWEET. This documented evidence, shows that in addition to the 04/20/2015 sworn testimony of Kathy Hart, Annette Sweet, LuAnn Customer Service, record shows, that [**NO RECORD OF ANY PAYMENT AGREEMENT OR PAYMENTS MADE DIRECTLY TO AMEREN ON THIS OUTSTANDING BALANCE OF \$ 846.15.**] The August 05, 2010 Ameren Mo. computer generated evidence does not appear to (a) provide in written CRAFT due process NOTICE as of August 05,2010 Ameren Bill 34433-07018, (b)This documented evidence dated August 05, 2010 would appear to support that a valid dispute existed and well known to Ameren Missouri not presented to MPSC during Staff investigation from 2010 time period.(c) Respondent Utilities August 05, 2010 ACCT assigned to Consumer Collection Management also suggest a Disputed account, thus triggering a duty upon Ameren Missouri to provide NOTICE of Due Process Hearing opportunity with a face-to face hearing with MANAGEMENT Kathy Hart or other Ameren Mo. Management not inconsistent with CRAFT Holding. (d) Ameren Mo.'s MANAGEMENT failed to provide a written NOTICE to CP aggrieved customer Small on August 05, 2010, that the Out-of-State customer would be granted a Face-to-Face hearing with MANAGEMENT Kathy Hart or other Utility MANAGEMENT.

The August 05, 2010 evidence suggest that 1-800 Phone Call systems failed to resolve any Disputed Bill, back in 2010 time period and continuing on April 20, 2015. No. EC-2015-0058. See also Bendix, 486 U.S. at 894, 108 S. Ct. 2218. See also Hoke v United States, 227 U.S. 308, 320, 33 S. Ct.

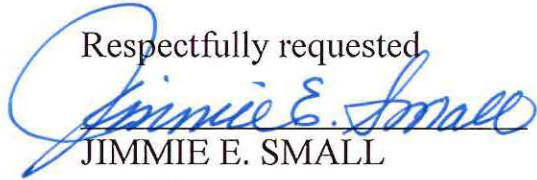
281, 57 L Ed 523(1913). Discussing Interstate Commerce issues.

Respondent Utilities 1-800 Dispute regulation systems is no law and clearly violates interstate Commerce in cause No. EC-2015-0058. See State ex rel Miller v. O'Malley, 342 Mo. 641, 117 S.W. 2d 319, 324 (Mo. banc 1938).

19. The City of Kirksville, Mo has taken no action for breach of its franchise agreement to maintain an Adair County Office Facility for the purpose of processing CRAFT species of Disputes, Invalid Billing and invalid 1-800 ineffective procedures. 42 U.S.C.S. sect. 1983; 1985 (3) prohibits conspiracy to deprive civil liberty and civil rights to due process Notice.
20. Its difficult to envision how Commission Staff investigators could allow 36 years to pass and continue to permit Respondent Utility to Circumvent CRAFT due process standards, by way of Telephone Call- via 1-800 and not be a part and parcel of the constitutional due process violations of some 2,400,000 potential victims.
21. Interestingly, Gay Fred's on 04/20/2015 testimony and prior Staff reports never bothered to investigate what procedures were required by the Commissions, rules, policies, practices and customs so as to meet timely compliance with CRAFT applicable standards within Missouri services jurisdiction.

WHEREFORE, Complainant prays for such order granting leave to supplement the April 2015 proceeding to include Respondents Data Request responses, plus the August 05, 2010 Computer data print-out, the Hon Commission might deem appropriate in the above given premises.

Respectfully requested

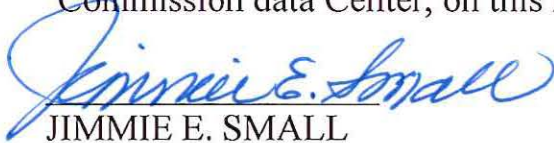


JIMMIE E. SMALL

606 West Hwy # 2,
Milton, Iowa, 52570

CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the above and foregoing Leave Motion, was served upon Counsel of record, Tatro, and filed with the Commission data Center, on this Monday, April 27, 2015.


JIMMIE E. SMALL

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

Jim Small/Complainant

v.

Case No. EC-2015-0058

Union Electric Co.

d/b/a Ameren Missouri

Respondent.

AFFIDAVIT

STATE OF IOWA)
) SS.
COUNTY OF DAVIS)

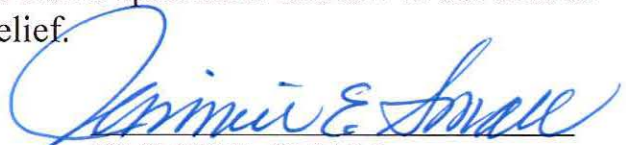
JIMMIE E. SMALL, Complainant in the above captioned matter, being duly sworn upon oath, states that he is dully qualified to make this affidavit in support of the 04/20/2015 Commission hearing on the merits and that affiant personally prepared the attached Motion of Leave to supplement document and that affiant has personal knowledge that Respondent Utility served CP Small with the attached **ON August 05, 2010 Billing Records**. That the Computer generated Billing record drafted by Respondent Customer Service Agent LuAnn Jefferson City TO:

(Green Hills District) supervisor, ANNETTE SWEET, was thereafter, materially altered, and suppressed from Utility Company's very same version of account No. 34433-07018 and No 3443302009 Billing account record marked as Defendants Exhibits 1HC and 2HC testified to by MANAGEMENT agent Kathy Hart on April 20, 2015. Based on this evidence, the Commission should grant Small's request for leave to supplement Small's April 20, 2015 sworn testimony, without objection.

Approximately 500 Commission Staff hours after Small filed Complaint, No. EC-2011-0247, on April 20, 2015 Respondent MANAGEMENT Kathy Hart testifies to a materially incomplete record knowingly excluding the Respondent's August 05, 2010 Computer generated evidence of dispute[s]. See Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402. Incomplete Agency record as of the time the September 08, 2014 Utility decision to deny services was entered and served upon CP, Affiant pro se, Out-of-State resident Small, a New Applicant for electric connection.

That the August 05, 2010 Customer Service, computer generated evidence, drafted by Agent LuAnn to Agent ANNETTE SWEET, appears to confirm that as of August, 05, 2010 respondent utility elected to engage in non-compliance with the united states supreme court decision craft 436 U.S. 1, 21-22, 98 S. Ct. 1554, 56 L. Ed 2d 30. (1978).

Affiant states that his motion for leave is based upon facts and law to the best of his knowledge, information, records, and belief.


JIMMIE E. SMALL

SUBSCRIBED AND SWORN TO BEFORE ME THIS APRIL 27TH, 2015.


NOTARY PUBLIC

MY COMMISSION EXPIRES: 10/25/2015

