

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

Raymond Joseph Freeman, III,	)	
Complainant,	)	
	)	
vs.	)	Case No. EC-2009-0048
	)	
Union Electric Company,	)	
d/b/a AmerenUE,	)	
Respondent.	)	

**ANSWER  
AND MOTION TO DISMISS**

COMES NOW Union Electric Company d/b/a AmerenUE (AmerenUE or Company), and for its Answer to the Complaint filed in this proceeding, states as follows:

**Answer**

1. On August 15, 2008, Raymond Joseph Freeman, III, of 3608 Montana Street, Apartment 3 West, St. Louis, MO 63166<sup>1</sup> (Complainant) initiated this proceeding by filing a Complaint against AmerenUE.

2. Any allegation not specifically admitted herein by the Company should be deemed denied.

3. Complainant does not allege that AmerenUE has acted in violation of any statute, regulation, order or decision. Nor does Complainant allege that AmerenUE acted in violation of its own tariffs.

4. Instead, Complainant makes two statements. First, he alleges that he has received repeated disconnection notices for amounts which are less than \$100.

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<sup>1</sup> Since filing the Complaint, Complainant closed his account on September 9, 2008. A final bill of \$124.27 was mailed on September 16, 2008 to 4130 Lindell, St Louis, MO 63108, at Complainant's request.

AmerenUE admits this is true. There is no statute, regulation, order or decision that makes a dollar distinction for when disconnection notices can be sent, nor should such a distinction be set by the Commission.

5. Secondly, Complainant states that he does not like the different summer and winter rates of AmerenUE. There is nothing to admit or deny in this assertion; AmerenUE's rates are approved by the Missouri Public Service Commission and the Company is not able to charge Complainant any rate other than that approved by the Commission.

6. For relief, Complainant requests the Commission require that AmerenUE not be allowed to disconnect a customer unless they owe some set, minimum amount. His suggestion for that minimum amount ranges from \$150 to \$300. AmerenUE does not support this suggestion and respectfully states it would have negative consequences for the Company as well as its customers (through an increase in bad debt expense). Additionally, a Complaint proceeding is not the appropriate forum to modify AmerenUE's Commission-approved tariff which applies to all customers.

### **Motion to Dismiss Complaint**

7. The Commission's regulations allow a customer to file a formal complaint when there is an allegation of a violation of a statute, rule, order or decision. 4 CSR 240-2.070(1). Complainant does not allege any violation of a statute, rule, order or decision. He only alleges that he doesn't like the current tariffs and practices of AmerenUE.

8. The Commission's regulations provide for dismissal of a complaint when it fails to state a claim upon which relief may be granted. 4 CSR 240-2.070(6). AmerenUE asks that the Commission exercise its authority and dismiss this Complaint.

9. When reviewing a Complaint to determine whether there is a failure to state a claim, the Commission must treat the facts contained in the petition as true and construe them liberally in favor of the Complainant. *Ste. Genevieve Sch. Dist. R-II v. Bd. of Aldermen of Ste. Genevieve*, 66 S.W.3d 6, 11 (Mo. banc 2002). A petition states a claim if it asserts any set of facts that would, if proven, entitle the Complainant to relief. *Id.*

10. In making its decision, the Commission must presume the facts alleged in this Complaint are true. The only fact alleged is that AmerenUE has sent Complainant disconnection notices for amounts due which are less than \$100. AmerenUE admits this fact. This fact does not entitle Complaint to any relief.

11. Complainant fails to state a claim which would entitle Complainant to any relief. The Commission should dismiss this Complainant for failure to state a claim upon which relief may be granted, pursuant to 4 CSR 240-2.070(6).

WHEREFORE, AmerenUE respectfully submits that it has, at all times, acted appropriately and requests that the Commission issue an order dismissing this Complaint as it fails to state a claim upon which relief may be granted.

Dated: September 18, 2008

Respectfully submitted,

UNION ELECTRIC COMPANY,  
d/b/a AmerenUE

By: /s/ Wendy K. Tatro  
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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Answer was served on the following parties via electronic mail (e-mail) or via regular mail on this 18<sup>th</sup> day of September, 2008.

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/s/ Wendy K. Tatro

Wendy K. Tatro