

In the Matter of:

Dora Michelle Middleton

v.

Union Electric Company d/b/a Ameren Missouri

EC-2020-0083, VOL 4

April 15, 2020



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A P P E A R A N C E S

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P R O C E E D I N G S

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2 JUDGE HATCHER: Let's go on the record. Today
3 is April 15, 2020. The Commission has set this time for
4 a pre-hearing conference for File No. EC-2020-0083,
5 which is captioned as Dora Middleton, Complainant, vs.
6 Union Electric Company d/b/a Ameren Missouri,
7 Respondent. My name is Charles Hatcher, and I am the
8 Regulatory Law Judge assigned to this case. Let's go
9 ahead and have counsel make their entry of appearance.

10 First we'll start with the complainant, Ms.
11 Middleton. Ms. Middleton, are you on the line? Let the
12 record reflect that there was no answer. For Ameren
13 Missouri?

14 MS. GIBONEY: For Ameren Missouri, this is
15 Sarah Giboney of the law firm Smith Lewis. My mailing
16 address is 111 South Ninth Street, Columbia, Missouri
17 65201, and I believe on the line is Aubrey Krcmar.
18 Aubrey, are you there?

19 MS. KRCMAR: Yes, I am.

20 MS. GIBONEY: And Aubrey is with us as a
21 representative of the company as well.

22 JUDGE HATCHER: Thank you. And for Staff?

23 MR. PRINGLE: Thank you, Judge. This is
24 Travis Pringle, Legal Counsel, Staff Counsel Department.
25 My mailing address is 200 Madison Street, P.O. Box 360,

1 Jefferson City, Missouri 65102. And with me I have
2 staff member Gary Bangert from our customer experience
3 department.

4 JUDGE HATCHER: Thank you all. Let the record
5 reflect that we started the pre-hearing on time at noon.
6 It is now 17 minutes past.

7 We'll ask once again if Ms. Middleton is on
8 the line or in attendance otherwise. Ms. Middleton, are
9 you there? Let the record reflect that Ms. Middleton
10 has not answered.

11 With that said, I believe that concludes all
12 of the issues or items that we can have without Ms.
13 Middleton here. My plan is to issue an order asking Ms.
14 Middleton to explain her absence prior to the Commission
15 dismissing the case.

16 Are there any other issues that any of the
17 parties would like to bring up while we're all here?

18 MS. GIBONEY: Judge, this is Sarah Giboney for
19 Ameren Missouri. I would like to make a motion on the
20 record if you'd permit it. I believe under the rules it
21 seems to me that you can make it even if a complainant
22 hasn't appeared because that's what the rule addresses.

23 JUDGE HATCHER: Okay. Go ahead.

24 MS. GIBONEY: Judge, Ameren Missouri would
25 move the Commission to dismiss this complaint with

1 prejudice, and as grounds I would cite to 20 CSR
2 4240-2.116 at subparagraphs (2), (3) and (4). And if
3 you'll permit me to argue a little bit, I could explain
4 those.

5 JUDGE HATCHER: Yes, go ahead.

6 MS. GIBONEY: One of the grounds under which
7 the Commission can dismiss a complaint is, of course, as
8 you know, failure to appear. It's obvious from the four
9 times that the Commission has reset this pre-hearing and
10 that the Commission staff have made every possible
11 effort to figure out where to send notices to Ms.
12 Middleton that despite all the addresses and calls and
13 emails at the email addresses she provided that Ms.
14 Middleton has failed to appear at the hearing. So
15 that's subparagraph (3).

16 Subparagraph (2) address a party's failure to
17 prosecute. In this case I think the Commission should
18 take into account that Ms. Middleton is the complainant;
19 and even if the Commission and staff have been able to
20 find a proper address for her, she brought the complaint
21 and it's her duty to prosecute it and she could have
22 contacted the Commission and asked why nothing has
23 happened or given a forwarding address. And it seems
24 apparent from looking at the docket sheet at least that
25 she hasn't done that. That's subparagraph (2) if I

1 didn't mention that.

2 The last grounds would be subparagraph (4)
3 which is just the general the Commission may dismiss for
4 good cause, and Ameren Missouri would argue that good
5 cause exists because --

6 THE COURT REPORTER: I'm sorry, Ms. Giboney.
7 I didn't understand that last.

8 MS. GIBONEY: I'll pick up right there. The
9 Commission may dismiss for good cause, and my argument
10 regarding good cause was that each of the other parties
11 is expending resources to participate in this complaint
12 when the complainant is not and those resources could be
13 expended to the benefit of our clients and to the
14 Commission and to the public if we could be done with
15 this complaint essentially and use our resources
16 elsewhere. That's it, Judge.

17 JUDGE HATCHER: Thank you, Ms. Giboney. Could
18 you expand just briefly on why you're seeking the
19 dismissal with prejudice specifically as opposed to
20 without prejudice?

21 MS. GIBONEY: Well, this is not the first
22 complaint that Ms. Middleton has filed and not
23 participated in and not done what she was ordered to do.
24 I don't have the complaint number in front of me but I
25 could pull it up if you'd like me to. They are related

1 complaints in that she is again complaining about
2 service at an address -- or billing, I'm sorry. She
3 previously raised a complaint about billing at another
4 address and then dismissed that complaint without fully
5 prosecuting it. I think if you don't dismiss with
6 prejudice we'll have a situation where she will file a
7 complaint and then will not prosecute it or will not
8 comply with the Commission's orders.

9 JUDGE HATCHER: Was this the second case on
10 the same one month or so of missed billing or was this
11 two different complaints that revolve around the same
12 issue of changing addresses?

13 MS. GIBONEY: This complaint that's pending
14 right now does involve allegations that relate to a
15 prior complaint, the same billing as in the prior
16 complaint, and the reason those were not resolved, even
17 though we submitted written testimony and the company
18 did everything it was supposed to do and so did staff,
19 was because Ms. Middleton dismissed that complaint after
20 we got to the point of submitting our written testimony,
21 our evidence. But yes, they do involve billings at
22 identical addresses identical time periods.

23 There are additional billings and time periods
24 in this complaint but they stem from the same original
25 billings.

1 MS. KRCMAR: Judge and Sarah, if I may, this
2 is Aubrey Krcmar. I do have the previous case filing if
3 that would be helpful.

4 JUDGE HATCHER: Yes, please, go ahead.

5 MS. KRCMAR: It is EC-2018-0076.

6 JUDGE HATCHER: All right. Thank you.

7 Mr. Pringle, since you are here in attendance, does
8 staff have any input on Ms. Giboney's motion?

9 MR. PRINGLE: We have no objection to it. I
10 do kind of concur with Ms. Giboney's comments on
11 resources and how many times Ms. Middleton has been
12 given a shot to appear at this pre-hearing conference.

13 JUDGE HATCHER: Okay. I will take that under
14 advisement and we will go from there.

15 Is there anything else that we need to discuss
16 before we adjourn this hearing?

17 MS. GIBONEY: Not from Ameren Missouri, Judge.
18 Thank you.

19 MR. PRINGLE: Nothing from staff, Judge.

20 JUDGE HATCHER: Okay. Ms. Giboney, I will make
21 an official note in the record of the motion to dismiss
22 with prejudice. All right. That is it.

23 Beverly, do you have everything you need,
24 everyone's addresses and such?

25 THE COURT REPORTER: I do. Thank you.

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JUDGE HATCHER: Excellent. Then we are off the record.

MS. GIBONEY: Thank you, Judge.

MR. PRINGLE: Thank you, Judge.

(Off the record.)

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