

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

Charles Harter,)	
)	
Complainant,)	
)	
v.)	<u>Case No. EC-2023-0281</u>
)	
Union Electric Company)	
d/b/a Ameren Missouri,)	
)	
Respondent)	

**STAFF’S RESPONSE TO COMPLAINANT’S MOTION FOR PENALTY ON
RESPONDENT AND AMENDED PETITION FOR PROTECTIVE ORDER**

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”) and for its *Response to Complainant’s Motion for Penalty on Respondent and Amended Petition for Protective Order*, states as follows:

1. Charles Harter filed his *Complaint* on March 7, 2023, alleging therein that Ameren Missouri had violated Rule 20 CSR 4240-13.050(5) because it “failed to obtain postmark to prove and in fact failed to provide 10 days of notice that “an electric utility shall not discontinue residential service pursuant to section (1) unless written notice by First Class Mail is sent to the customer at least ten (10) days prior to the date of the proposed discontinuance,” and for relief requesting that the Commission direct Ameren Missouri to “expunge the wrongful claim of deficiency for the utility [*sic*] disregard of rules as set out herein and require utility to follow rules to provide proper phone service of complaints and proper notice of disconnection and disclose to customers on request their records of date of mailing and delivery of notice of discontinuance.” Complainant alleged further that he “did not receive their notice of discontinuance until Saturday, March 4, 2023, and St. Louis has next day delivery for any cross-town mailing,

which Respondent sent bulk mail to avoid postmark, which would reveal its true date of mailing of 3-3-23.” Complainant further alleges that Ameren Missouri violated Rule 20 CSR 4240-13.050(4)(F) “that ‘notice of discontinuance shall contain a telephone number that customer can call ... where the customer may make an inquiry’” in that Complainant was unable to converse with the first person that answered the number provided by Ameren Missouri due to a crying infant and the second stated that she could not discuss his account but only take payment. Complainant also alleges that Ameren Missouri violated Rule 20 CSR 4240-13.050(6) because it did not maintain an accurate record of the date of mailing of the Notice of Discontinuance attached to his *Complaint*, showing an amount due of \$257.41 and a warning that his service might be disconnected if that amount was not paid by March 10, 2023.

2. In his *Complaint*, Complainant indicated that \$257.41 is in dispute.

3. Ameren Missouri discontinued Complainant’s service on May 11, 2023, for non-payment.

4. Staff contacted Aubrey Krcmar of Ameren Missouri and was advised that Complainant’s service was disconnected due to his failure to pay amounts accrued and owing for service provided after he filed the instant formal complaint.

5. Complainant argues that Respondent may not discontinue his service during the pendency of a formal complaint without first moving for and obtaining an order of the Commission authorizing that action. Complainant is mistaken.

This is a Formal Complaint. There is no rule of the Commission that prohibits a utility from terminating service during the pendency of a Formal Complaint, although that is Ameren Missouri’s practice. Rather than Ameren Missouri being obliged to move for

leave to disconnect, it is Complainant that must move the Commission for a stay order. He has not done so.

Rule 20 CSR 4240-13.070(6) prohibits discontinuance of service during pendency of an *Informal Complaint*, as Complainant correctly notes, unless the complaining party fails to pay any undisputed amounts. 20 CSR 4240-13.070(7). The latter, by its express terms, unlike Rule 20 CSR 4240-13.070(6), applies both to Informal Complaints and Formal Complaints: “Failure of the customer to pay the amount of a bill which is not in dispute, as determined pursuant to sections 4 CSR 240-13.045(5) or (6) of these rules, shall be grounds for discontinuance of service and dismissal of an informal or formal complaint.”

6. Rule 20 CSR 4240-13.070(7) references Rule 20 CSR 4240-13.045, (5) and (6), which provide:

(5) If a customer disputes a charge, s/he shall pay to the utility an amount equal to that part of the charge not in dispute. The amount not in dispute shall be mutually determined by the parties. The parties shall consider the customer’s prior consumption history, weather variations, the nature of the dispute, and any other pertinent factors in determining the amount not in dispute.

(6) If the parties are unable to mutually determine the amount not in dispute, the customer shall pay to the utility the lesser of an amount not to exceed fifty percent (50%) of the charge in dispute or an amount based on usage during a like period under similar conditions which shall represent the amount not in dispute.

(7) Failure of the customer to pay to the utility the amount not in dispute within four (4) working days from the date that the dispute is registered or by the delinquent date of the disputed bill, whichever is later, shall constitute a waiver of the customer’s right to continuance of service and the utility may then proceed to discontinue service as provided in this rule.

7. Complainant did not pay the undisputed portion of his overdue bill to Ameren Missouri and pursuant to Rule 20 CSR 4240-13.045(7), he has thereby waived his right to continued service. The language of Rule 20 CSR 4240-13.070(7), that “[f]ailure of the customer to pay the amount of a bill which is not in dispute, as determined pursuant to sections 4 CSR 240-13.045(5) or (6) of these rules, shall be grounds for discontinuance of service . . . ,” is an unmistakable reference to Rule 20 CSR 4240-13.045(7).

8. It is Staff’s view that Ameren Missouri has acted properly and that Complainant forfeited his right to continued service by failure to pay amounts not in dispute or to pay half of the amount owing to Ameren Missouri by the date set for discontinuance.

WHEREFORE, Staff respectfully prays that the Commission will DENY *Complainant’s Motion for Penalty on Respondent and Amended Petition for Protective Order*, and grant such other and further relief as the Commission deems just in the circumstances.

Respectfully submitted,

/s/ Kevin A. Thompson
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all parties and/or counsel of record on this 16th day of May, 2023.

/s/ Kevin A. Thompson