

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

In the Matter of the Application of Brett Felber)
For Change of Electric Supplier) **File No. EO-2024-0244**

STAFF’S MOTION TO DISMISS

COMES NOW the Staff of the Missouri Public Service Commission and prays the Commission’s immediate order dismissing the Application of Brett Felber for Change of Electric Supplier, stating further:

On March 11, 2024, Brett Felber filed an Application for Change of Electric Service Provider. The stated basis of the application is that he is a victim of Ameren Missouri’s alleged extortion and fraud. The application states that his address is in Florissant, Missouri. He asks that his service be changed from Ameren Missouri to “Evergy Missouri West.” On March 13, 2024, the Commission issued its Notice of Deficiency. Therein the Commission noted that neither Evergy Missouri Metro, Inc., nor Evergy Missouri West, Inc. provides service where the subject address is located.

On March 28, 2024, Evergy Missouri West filed its Response to Application for Electrical Supplier and Ameren Missouri filed its Motion to Dismiss. Evergy Missouri West’s pleading affirmed that the customer’s property is not located in territory served by Evergy Missouri West. Ameren Missouri’s pleading invoked the Commission’s finding in Mr. Felber’s prior change of supplier case, *In the Matter of the Application of Brett Felber for Change of Electric Supplier*, EO-2024-0163, involving the same parties and request

for relief: that Mr. Felber had not requested relief which the Commission could grant when he asked for a change of supplier from Ameren Missouri to Evergy.¹

On March 29, 2024, Mr. Felber filed a Motion to Deny Ameren's Motion to Dismiss.

Therein he stated, inter alia:

Again, I don't expect my Change of Supplier to be approved. I said that in a realistic filing, *however, I want Ameren Missouri to expend all their money on my complaints until they are eventually bankrupt* [emphasis added].²

Rule 20 CSR 4240-2.080 (6) states:

(6) By presenting or maintaining a claim, defense, request, demand, objection, contention, or argument in a pleading, motion, brief, or other document filed with or submitted to the commission, an attorney or party is certifying to the best of the signer's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,

that—

A) The claim, defense, request, demand, objection, contention, or argument is not presented or maintained for any improper purpose, *such as to harass or to cause unnecessary delay or needless increase* in the cost of Litigation. (emphasis added)

(B) The claims, defenses, and other legal contentions therein *are warranted by existing law* or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law [.] (emphasis added)

¹ In EO-2024-0163, by Order of November 14, 2023, this Commission expressly found and stated:

Under Missouri law a Missouri investor-owned electric utility may not provide service outside of its certificated service area. Ameren Missouri has a certificate of convenience and necessity to serve the area that includes Mr. Felber's address. Neither Evergy Missouri Metro nor Evergy Missouri West has a certificate to provide electric service to Mr. Felber's address. Further, contrary to Mr. Felber's arguments in his application and responses, the electric utilities in Missouri, including Ameren Missouri, are not deregulated such that any other electric service provider in the state can supply electricity his address. Thus, Mr. Felber has not asked for relief that the Commission can grant.

This order required Mr. Felber to show cause why his application should not be dismissed for failure to state a claim upon which relief can be granted. On December 15, 2023, Mr. Felber filed a Motion to Dismiss his own Complaint. This Commission granted that motion on March 6, 2024. Five days later, on March 11, Mr. Felber filed the application now before the Commission, involving the same parties and requesting the same relief as in EO-2024-0163.

² EFIS, item #15.

Mr. Felber's Application alleges facts and requests relief which place his case directly within the circumference of File EO-2024-0163, wherein the Commission previously found that it could not grant the relief that he now again seeks. Beyond that: Mr. Felber's filings in this case expressly admit that he does not here expect the Commission to grant his request for change of supplier. Then Mr. Felber crosses a bright line: Having dismissed his earlier case in the face of the Commission's admonition that he had not stated a cause of action, five days later he refiles the same case, not only admitting that he does not expect the Commission to do what he asks again, but also stating that he does not care. With no concern for Staff's resources and workload or the expense to Evergy, Mr. Felber states that he is here simply to waste time and money: What he really wants is simply for "Ameren Missouri to expend all their money on my complaints until they are eventually bankrupt."

Staff contends that Mr. Felber has now expressly pleaded himself right out of his own case. The law requires no more process here. If Mr. Felber's single purpose is to harass Ameren Missouri, then Mr. Felber has now received all of the process he is due, and the Commission should immediately dismiss the Application.

WHEREFORE, Staff prays the Commission's Order dismissing the Application and for such other and further relief as the Commission may deem appropriate. Specifically, in light of Staff's workload and that of both Evergy Missouri West and Ameren Missouri, Staff asks the Commission to suspend all deadlines and orders now directed to Staff, Evergy Missouri West and Ameren Missouri pending disposition of this Motion to Dismiss.

Respectfully Submitted,

/s/ Paul T. Graham #30416

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CERTIFICATE OF SERVICE

The undersigned by his signature below certifies that the foregoing pleading was served upon all counsel of record on this April 1, 2024 by electronic filing in EFIS, electronic mail, hand-delivery, or U.S. postage prepaid.

/s/ Paul T. Graham