

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

Brett Felber and Lisa Lambert,)	
)	
Complainants,)	
)	
v.)	<u>File No. EC-2024-0108</u>
)	
Union Electric Company d/b/a Ameren)	
Missouri,)	
)	
Respondent.)	

ANSWER, GROUNDS OF DEFENSE AND MOTION TO DISMISS

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company"), by and through the undersigned counsel, and for its *Answer, Grounds of Defense and Motion to Dismiss* respectfully states to the Missouri Public Service Commission ("Commission"):

Answer

1. Ameren Missouri is without sufficient information, knowledge or belief to answer whether Complainants reside at the address in Paragraph 1, and therefore denies the same. Further, Ameren Missouri denies that the address listed in the Complaint is the mailing address on file with Ameren Missouri for bills or other correspondence.

2. Ameren Missouri admits that it provides electric service to the address referenced in Paragraph 2b.

3. Ameren Missouri admits its physical address is 1901 Chouteau Avenue, St. Louis, Missouri, 63103, as stated in Paragraph 3.

4. Ameren Missouri admits it is a public utility under the jurisdiction of the Missouri Public Service Commission, as stated in Paragraph 4.

5. Ameren Missouri is without sufficient information, knowledge or belief to answer how Complainant calculated the amount in paragraph 5, and therefore denies the same.

6. For paragraph 6, Ameren Missouri admits ** [REDACTED]
[REDACTED]
[REDACTED] ** Ameren Missouri denies all other allegations contained in paragraph 6.

7. For paragraph 7, Ameren Missouri admits ** [REDACTED]
[REDACTED] ** Ameren Missouri denies all other allegations contained in paragraph

8. Ameren Missouri denies the allegations contained in paragraph 8.

9. Ameren Missouri denies the allegations contained in paragraph 9.

Grounds for Defense

10. ** [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] **

11. ** [REDACTED]
[REDACTED] **

12. ** [REDACTED]
[REDACTED] **

13. ** [REDACTED]
[REDACTED]
[REDACTED] **

14. ** [redacted]

[redacted]

[redacted] **

15. ** [redacted]

[redacted]

[redacted] **

16. ** [redacted]

[redacted]

[redacted] **

17. ** [redacted]

[redacted] **

18. ** [redacted] **

19. ** [redacted]

[redacted]

[redacted]

[redacted] **

20. ** [redacted]

[redacted]

[redacted] **

21. ** [redacted]

[redacted]

[redacted] **

22. ** [REDACTED]

[REDACTED] **

23. ** [REDACTED]

[REDACTED] **

Motion to Dismiss

24. The complaint states in paragraph 6 that [REDACTED]

[REDACTED]

[REDACTED] ** Also in paragraph 6, the complaint states that [REDACTED]

[REDACTED]

[REDACTED] **

25. The certified letter is attached hereto as Attachment A-C and marked confidential pursuant to 20 CSR 4240-2.135(2)(A)1.

26. It doesn't take long when looking at the certified letter to determine that the "dispute" the complaint alleges Ameren Missouri failed to rectify is the same dispute that was the subject of the complaint in File No. EC-2023-0395. As part of the certified letter, ** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] ** Attachment A-C, p. 4. Further, the certified letter states: ** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **

27. Complainant Felber is attempting to relitigate the issues that were part of and decided by the Commission in Complainant Felber's prior complaint matter, File No. EC-2023-0395. For this reason, the complaint should be dismissed based on *res judicata*.

28. Generally, *res judicata* is the principle that a cause of action may not be relitigated once it has been judged on the merits.

29. In *Chesterfield Village, Inc. v. City of Chesterfield*, 64 S.W.3d 315 (Mo. 2002), the Court discussed the doctrine of *res judicata*:

. . . The common-law doctrine of *res judicata* precludes relitigation of a claim formerly made. *King General Contractors, Inc. v. Reorganized Church of Jesus Christ of Latter Day Saints*, 821 S.W.2d 495 (Mo. banc 1991), and *Norval v. Whitesell*, 605 S.W.2d 789, 790 (Mo. banc 1980).

The key question is what is the “thing”—the claim or cause of action—that has previously been litigated? A claim is “[t]he aggregate of operative facts giving rise to a right enforceable by a court.” The definition of a cause of action is nearly the same: “a group of operative facts giving rise to one or more bases for suing.” Whether referring to the traditional phrase “cause of action” or the modern terms “claim” and “claim for relief” used in pleading rules such as Rule 55.05, the definition centers on “facts” that form or could form the basis of the previous adjudication.

. . . The doctrine precludes not only those issues on which the court in the former case was required to pronounce judgment, “but to every point properly belonging to the subject matter of litigation and which the parties, exercising reasonable diligence, might have brought forward at the time.” *King General Contractors, Inc.*, 821 S.W.2d at 501.

Id. at 318; Footnotes omitted.

30. "Claim preclusion 'prevents reassertion of the same claim even though additional or different evidence or legal theories might be advanced to support it.'" *Id.* at 320; internal citations omitted.

31. The Commission issued its *Report and Order* in EC-2023-0395 on November 29, 2023. The Report and Order made findings of fact and conclusions of law regarding the claims

asserted in the complaint. Complainant Felber did not properly appeal the *Report and Order* and it became final.

32. Complainant Felber's attempt to relitigate the issues from EC-2023-0395 in a new complaint is improper and barred by *res judicata*. Therefore, the Commission should dismiss the complaint.

WHEREFORE, Ameren Missouri submits this *Answer, Grounds of Defense and Motion to Dismiss* and requests the Commission dismiss the complaint.

Respectfully submitted,

/s/ Jennifer L. Hernandez

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**ATTORNEY FOR UNION ELECTRIC
COMPANY d/b/a AMEREN MISSOURI**

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to the parties of record on this 21st day of July 2024.

/s/ Jennifer L. Hernandez

ATTACHMENT A-C

IS CONFIDENTIAL
IN ITS ENTIRETY

PURSUANT TO

20 CSR 4240-2.135(2)(A)1.