

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

Marlyn Young,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. EC-2007-0273
	)	
Union Electric Company,	)	
d/b/a AmerenUE,	)	
	)	
Respondent.	)	

**ANSWER OF AMERENUE AND  
MOTION TO DISMISS THE COMPLAINT**

COMES NOW Union Electric Company d/b/a AmerenUE (AmerenUE or Company),  
and for its *Answer and Motion to Dismiss the Complaint*, states as follows:

1. On January 22, 2007, Marlyn Young of 2437 Wieck Drive, St. Louis, Missouri 63136 (Complainant) initiated this proceeding by filing a Complaint against AmerenUE.
2. In paragraph 1 of the Complaint, Complainant alleges that AmerenUE is located in St. Louis, Missouri, and that AmerenUE is a public utility under the jurisdiction and supervision of the Public Service Commission of the State of Missouri (Commission). AmerenUE admits the allegations contained in paragraph 1 of the Complaint.
3. In paragraph 2, the Complainant refers to the attachments to his Complaint, which allege that AmerenUE used deceptive business practices and false entries on his account in order to terminate electric service at his home. AmerenUE admits that electric service to Complainant was terminated on October 25, 2006, but denies the remaining allegations.

4. Additionally, Complainant attached copies of bills he received from AmerenUE. These appear to be copies of Complainant's monthly bills, but AmerenUE does not retain copies of the actual bills, so the Company cannot verify the authenticity of the bills. AmerenUE would note that it does not appear to be a complete set of bills for the months in question for this Complaint. Further, several of the bills attached by Complainant were cancelled by the Company as part of its attempt to work with Complainant in resolving this issue in Case No. EC-2006-0283 (previous complaint).

5. Attached to this Answer as Exhibit 1 is a summary of charges and credits to Complainant's May and Weick accounts, with notations to indicate how those charges and credits correspond with the amounts showing as due and owing on the bills submitted by Complainant. Exhibit 2 is AmerenUE's actual billing records for Complainant's Weick account. The Commission already has the actual billing records from Complainant's May account, filed in his previous complaint case, as Attachment 1 to AmerenUE's May 4, 2006, Response to Order Directing Filing. Rather than resubmitting voluminous amounts of information, AmerenUE asks the Commission to take Administrative Notice of that information, as allowed by Sections 536.070(5) and (6), RSMo. 2005.

**I. Complaint is Duplicative of the Complaint Resolved in Case No. EC-2006-0283**

6. On January 1, 2006, Complainant filed a Complaint docketed as Case No. EC-2006-0283, which complained that AmerenUE had overcharged him and/or failed to properly credit him with deposits and payments he alleged to have made. AmerenUE submitted into the record of that case the complete billing history for Complainant at his multiple residences through the date of the Complaint. A hearing was held on August 16, 2006, at which time Complainant had the opportunity to present his case and to cross-examine AmerenUE's witness.

After reviewing the records submitted by AmerenUE, the report filed by Staff and the evidence admitted at the hearing, the Commission made a lengthy and detailed series of findings about Complainant's allegations. The Report and Order, issued on September 21, 2006, found that the Complaint should be denied. AmerenUE asks the Commission to take Administrative Notice of the Report and Order, as allowed by Sections 536.070(5) and (6), RSMo. 2005.

7. Complainant filed an Application for Rehearing, which was denied by the Commission on October 24, 2006. Subsequent to the denial of his application for rehearing, the Complainant appealed the Commission decision. This appeal is now pending in the Circuit Court of Cole County, and has been docketed as Case No. 06AC-CC-01080.

8. The portion of the current Complaint relating to the Complainant's bill is not properly before the Commission. It has been ruled upon and Complainant's Application for Rehearing was denied. The case has been appealed and that process has not yet been completed. Complainant has been afforded Due Process and should not be allowed to repeatedly bring forth this claim for Commission review. It is a waste of the Commission's and AmerenUE's time and resources.

## **II. Disconnection of Electric Service**

9. Complainant also complains that his electric service has been terminated at his Wieck residence. This matter was briefly brought before of the Commission in his previous Complaint. Complainant's electric service was terminated at his Wieck residence, not because of past due bills incurred at his former residence of 8831 May, which were the subject of his previous complaint, but because of bills incurred at the Wieck residence after the filing of his previous complaint. *Order Denying Complainant's Motion for Judgment and Notice of Obligations*, Case No. EC-2006-0283, July 20, 2006, p. 4. The disconnection notices were

attached to Complainant's *Motion and Order for Judgment Against Union Electric Company*, filed on June 22, 2006, in his previous complaint. AmerenUE asks the Commission to take Administrative Notice of that information, as allowed by Sections 536.070(5) and (6), RSMo. 2005.

10. In the previous complaint case, the Commission reminded Complainant that he was required to pay the portions of his bill which were not the subject of the complaint. The Commission stated, "Marlyn Young is hereby notified that pendency of this complaint does not excuse him of his obligation to timely pay all past, present and future billed amounts not in dispute and that failure to pay such amounts could result in the dismissal of his complaint under 4 CSR 240-13.070(7)." Case No. EC-2006-0283, *Order Denying Complainant's Motion for Judgment and Notice of Obligations*, July 20, 2006, p. 5.

11. Despite the very clear warning in the Commission's Order, Complainant failed to make timely payments of his bills. Complainant's electric service was terminated and remains off at this time. Complainant contacted AmerenUE's Customer Service on the day his service was disconnected, but only to obtain a fax number for AmerenUE's Legal Department. He called again on December 21, 2006, and was sent a statement of account, showing the bills and payments on his account since April. AmerenUE has had no further contact with Complainant, other than pleadings filed in Case No. 06AC-CC-01080 in the Circuit Court of Cole County.

### **III. The Commission Cannot Grant the Relief Requested**

12. Complainant asks the Commission to order compensatory, pain and suffering and punitive damages. Even if Complainant succeeds in proving his allegations, the Commission has no jurisdiction to award punitive damages. The Commission exercises quasi judicial powers that are "incidental and necessary to the proper discharge" of its duties. However, its adjudicative

authority is not plenary. *State Tax Commission v. Administrative Hearing Commission*, 641 S.W.2d 69, 75 (Mo. 1982), quoting *Liechty v. Kansas City Bridge Co.*, 162 S.W.2d 275, 279 (Mo. 1942). The Commission authority extends only to the ascertainment of facts and application of the existing law to those facts in order to resolve issues before it. *State Tax Commission, supra*. As such, the Commission is without authority to award money damages. *American Petroleum Exchange v. Public Service Commission*, 172 S.W.2d 952, 955 (Mo. 1943).

13. Complainant has been told that the Commission does not have this authority. In the previous complaint, the Commission explicitly stated that “Mr. Young’s request for punitive damages is also inappropriate, in that the commission is without authority to award money damages.” Case No. EC-2006-0283, *Order Denying Complainant’s Motion for Judgment and Notice of Obligations*, July 20, 2006, p. 4.

14. AmerenUE believes that it has at all times acted properly and has adjusted Complainant’s account when appropriate. AmerenUE also believes it terminated Complainant’s service as allowed under the Commission’s rules.

WHEREFORE, AmerenUE respectfully requests that the Commission issue its order dismissing this Complaint with prejudice. In the alternative, AmerenUE requests that the Commission schedule a hearing in this proceeding.

Respectfully submitted,

UNION ELECTRIC COMPANY,  
d/b/a AmerenUE

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Dated: February 22, 2007

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Entry of Appearance was served via electronic filing and electronic mail (e-mail) or via regular mail on this 22<sup>nd</sup> day of February, 2007, to:

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/s/ Wendy Tatro  
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