

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

Claude Scott,)	
Complainant,)	
)	
vs.)	Case No: EC-2020-0005
)	
Union Electric Company, d/b/a)	
Ameren Missouri,)	
Respondent.)	

AMEREN MISSOURI’S ANSWER AND AFFIRMATIVE DEFENSES

COMES NOW Union Electric Company, d/b/a Ameren Missouri (“Ameren Missouri” or “Company”), and for its Answer and Affirmative Defenses states as follows.

1. On July 15, 2019 Complainant initiated this proceeding against the Company (the “*Complaint*”), pertaining to the Company’s charges for residential electric (1M) service (“service”) to him at ***[REDACTED]*** (“3725”).

2. On July 15, 2019, the Commission issued its *Notice of Small Formal Complaint and Order Directing Staff to Investigate and file a Report* (the “*Notice*”). The *Notice* ordered the Company to file a response to the Complaint no later than August 14, 2019, and ordered Staff to investigate and file its report no later than September 13, 2019.

3. On July 19, 2019, the Company filed a *Motion for Extensions of Time and Motion to Dismiss*.

4. On July 22, 2019, the Commission issued its *Notice and Order Setting Summary Disposition Procedural Schedule and Suspending Staff Recommendation*, excusing Staff from filing a report, absent a future order, ordering the Company to answer the *Complaint* no later than August 14, 2019, ordering the Company to file a rule-compliant motion for summary disposition no later than September 13, 2019, and ordering Complainant to file a rule-compliant response to the Company’s motion no later than thirty days after the Company files its motion.

Answer

5. Any allegation not specifically admitted herein by the Company should be considered denied.

6. The Company admits the allegations of paragraph 1 of the *Complaint*.

7. In answer to paragraph 2, the Company admits that the utility service complained of was received by Complainant at the address set forth in paragraph 1.

8. In answer to paragraph 3, the Company admits that its mailing address for purposes of this proceeding are: 1901 Chouteau Ave., MC-1310, P.O. Box 66149, St. Louis, Missouri 63166-6149.

9. The Company admits the allegations of paragraph 4.

10. In answer to paragraph 5, the Company admits that the amount Complainant has placed at issue is ***\$[REDACTED]***.

11. In answer to paragraph 6, the Company denies that the Company has overbilled Complainant through budget billing; denies that Complainant requested that budget billing be cancelled prior to the time he accrued a balance of ***\$[REDACTED]***, of which ***\$[REDACTED]*** was attributable to budget-billing; denies that the Company has refused to provide meter readings to prove the amounts billed to Complainant; admits that it issued a disconnection notice to Complainant on July 9, 2019, advising that unless his past due account balance of ***\$[REDACTED]*** was paid on or before July 19, 2019, his service would be disconnected for nonpayment; and is without information sufficient to admit or deny Complainant's allegations pertaining to his medical condition and any treatment for it and therefore denies the same. In further answer, the Company denies that Complaint is entitled to any relief from the Commission.

12. In answer to paragraph 7, the Company states that paragraph 7 fails to allege facts that constitute a violation of a statute, tariff or Commission regulation or order but rather sets forth requests for relief. In further answer, the Company denies that Complainant is entitled to the relief of postponement of any service interruption (disconnection), and denies that he is entitled to the relief of a payment plan related to the amount in dispute. In further answer, the Company states that Complainant's request for meter readings is moot because as required by 4 CSR 240-13.020(9)(A) the Company already issues bill statements to Complainant for service to ***[REDACTED]*** that include the beginning and ending meter readings for the billing period covered by bill statement and the dates of those readings.

13. In answer to paragraph 8, the Company admits that Complainant has spoken to Company personnel, and has filed a prior complaint, EC-2018-0371, arising from the same facts and circumstances as this Complaint, and that Complainant was not satisfied with the outcome

because the prior complaint was denied on the merits. EC-2018-0371, *Report and Order* issued May 15, 2019, effective June 14, 2019, EFIS Item No. 58. In further answer to paragraph 8, the Company denies that it (the respondent) requested any utility assistance. In the event Complainant intended to assert that he requested utility assistance, then the Company answers that it is without information sufficient to admit or deny whether he requested utility assistance and therefore denies the same. In further answer the Company denies that the Company blocked Complainant from any utility assistance requested by him, and denies that the Company caused a previous service interruption.

Affirmative Defenses

14. As explained more fully at page 3 of its *Motion for Extension of Time and Motion to Dismiss* previously filed in this *Complaint*, Complainant makes the same allegations of wrongdoing against the Company in this *Complaint*, and this *Complaint* arises out of the same facts and circumstances, as EC-2018-0371, which the Commission denied on the merits in its *Report and Order* issued May 15, 2019, effective June 14, 2019. As such, this *Complaint* amounts to a request for rehearing. However, no party filed an application for rehearing before the effective date of the *Report and Order*. As a result, the Commission is now without statutory authority to consider any such application for rehearing. See, e.g., *Young v. Union Elec. Co.*, EC-2006-0283, 2006 WL 3057662, *Order Denying Application for Rehearing* (complainant's application for rehearing, filed eighteen days after the effective date of the Commission's *Report and Order*, was untimely, such that the Commission determined it was deprived of the statutory authority necessary to consider it). Because the Commission does not have statutory authority to grant the requested relief, the *Complaint* must be dismissed.

15. The passing of the effective date of the *Report and Order* without any timely application for rehearing also renders the *Report and Order* in EC-2018-0371 final and unreviewable. *Harter v. Missouri Pub. Serv. Comm'n*, 361 S.W.3d 52, 56 (Mo. App. W.D. 2011)(if a motion for rehearing is not filed before the effective date of the order, the order and decision of the Commission becomes final and conclusive and is not reviewable). Per § 386.550 RSMo (2016), “[i]n all collateral actions or proceedings the orders and decisions of the commission which have become final *shall be conclusive*” (emphasis added), such that complaints filed with the Commission that constitute collateral attacks on final Commission orders are barred. *State ex rel. MoGas Pipeline LLC v. Public Service Com’n*, 395 S.W. 562,

565-566 (Mo. App. W.D. 2013)(Commission's dismissal of a complaint attacking the validity of certain tariffs was affirmed because the complaint constituted an impermissible collateral attack on a prior, final Commission order addressing the same tariffs). Because this Complaint is a collateral attack on a final Commission Report and Order, it is barred and it must be dismissed.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Answer and Affirmative Defenses was served on the following parties via e-mail this 24th day of July, 2019.

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