

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

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|--------------------------------------|---|-------------------------------|
| Timothy Boyle, |) | |
| |) | |
| Complainant, |) | |
| |) | Case No.: EC-2026-0095 |
| vs. |) | |
| |) | |
| Union Electric Company, d/b/a |) | |
| Ameren Missouri, |) | |
| |) | |
| Respondent. |) | |

AMEREN MISSOURI'S REPLY BRIEF

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri" or "Company"), and for its Reply Brief respectfully states as follows:

INTRODUCTION

The Office of the Public Counsel's ("OPC") Brief does not dispute the central facts established at hearing. OPC does not dispute that Ameren Missouri inspected the facilities serving the Boyle residence approximately five months before the September 13, 2024 incident. OPC does not dispute that the inspection revealed no damage or condition requiring repair. OPC does not dispute that Ameren Missouri first received notice of the issue at the Boyle's home on September 13, 2024, at approximately 9:18 p.m., immediately dispatched personnel, and restored service approximately one hour later. Nor does OPC dispute the testimony of Ameren Missouri witnesses Christopher Kemp that the damaged neutral conductor and hot leg exhibited evidence of squirrel activity.

Instead of addressing these facts, OPC attempts to transform an unfortunate equipment failure into a violation of Section 393.130.1, RSMo., based solely on the fact that the damaged lines were owned by Ameren Missouri. Under OPC's theory, any failure of utility-owned equipment that results in customer damage would constitute a statutory violation regardless of whether the utility exercised reasonable care, complied with its inspection obligations, or promptly responded once notified of the condition.

That is not the standard established by Missouri law. Section 393.130.1 requires utilities to provide service and facilities that are safe, adequate, just, and reasonable; it does not impose strict liability for every service interruption or equipment failure. Likewise, Section 386.390 requires proof of a violation of a statute, Commission rule, tariff provision, Commission order, or Commission decision. Neither OPC nor Complainants presented any evidence to establish such a violation.

The unrebutted evidence presented at hearing established that Ameren Missouri maintained and followed a reasonable inspection program, inspected the lines serving the Boyle residence in accordance with that program, identified no condition requiring repair, received no notice of any issue before September 13, 2024. (Tr. p. 83, l. 22 through p. 84 l. 6), and promptly repaired damage caused by animal activity once the condition was reported (Tr. p. 83, l. 22 through p. 84, l. 6). The evidence further established that the circumstances presented in this case fall squarely within the type of unforeseen event contemplated by Ameren Missouri's Commission-approved Continuity of Service tariff.

Accordingly, OPC's arguments provide no basis for disturbing the conclusions reached in Ameren Missouri's Initial Brief. As discussed below, OPC identifies no actual violation of law, improperly seeks to impose a strict-liability standard not found in Section 393.130.1, ignores the unrebutted inspection evidence, fails to account for the significance of Ameren Missouri's Commission-approved tariff, and relies upon authority that does not support the result it seeks. The Complaint should therefore be denied in its entirety.

ARGUMENT

I. OPC IDENTIFIES NO ACTUAL VIOLATION OF A STATUTE, RULE, TARIFF, ORDER, OR COMMISSION DECISION.

Although OPC repeatedly asserts that Ameren Missouri violated Section 393.130.1, OPC identifies no specific act or omission by Ameren Missouri that violated that statute. OPC does not contend that Ameren Missouri failed to inspect the facilities serving the Boyle residence. OPC does not contend that Ameren Missouri failed to comply with its inspection schedule. OPC does not contend that Ameren Missouri ignored a known defect. OPC does not contend that Ameren Missouri failed to respond once notified of the condition. Rather, OPC's argument is essentially that because a Company-owned line failed, Ameren Missouri must necessarily have violated Section 393.130.1. That is not the legal standard.

If OPC's theory were accepted, any outage or service event caused by wildlife, storms, lightning strikes, vehicle collisions, falling trees, or other unforeseen events would automatically become a statutory violation whenever customer damage occurred. Such a rule would impose strict liability whenever utility-owned equipment failed, regardless of whether the utility exercised reasonable care. Nothing in Section 393.130.1 supports such a result.

Section 386.390 authorizes complaints alleging acts or omissions “in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission.” § 386.390.1, RSMo. Neither OPC nor Complainants identified any Commission rule, tariff provision, Commission order, or Commission decision violated by Ameren Missouri. Nor did they establish any specific conduct by Ameren Missouri that violated Section 393.130.1.

The record establishes only that an equipment failure occurred and that damage allegedly resulted. Such evidence does not satisfy Complainants’ burden of proof.

II. SECTION 393.130.1 DOES NOT IMPOSE STRICT LIABILITY FOR EQUIPMENT FAILURES.

OPC’s argument rests on the premise that because Ameren Missouri owned the facilities involved in the September 13, 2024 incident, Ameren Missouri is responsible for all resulting consequences. Ameren Missouri does not dispute that it owned and maintained the lines serving the Boyle residence. The issue before the Commission is whether Ameren Missouri failed to fulfill its obligations in a manner that violated a statute, Commission rule, tariff provision, Commission order, or Commission decision. The un rebutted evidence establishes that it did not.

Michael Ponder testified that Ameren Missouri maintains a documented inspection program and that the facilities serving the Boyle residence were inspected in April 2024. The inspection revealed no condition requiring repair. (Tr. p. 144, ll. 1-11). Mr. Ponder further testified that the Company's inspection cadence is documented with the Missouri Public Service Commission and is consistent with industry standards. (Tr. p. 148, ll. 3-15).

Ponder further testified that if a broken conductor had existed at the time of the inspection, it would have been identified and treated as an emergency condition requiring immediate corrective action. (Tr. p. 161, l. 4-14).

Christopher Kemp further testified that squirrel damage can occur at any time after an inspection has been completed. (*Tr. p. 192, ll. 3-5*). Thus, the evidence established that Ameren Missouri fulfilled its maintenance obligations, inspected the facilities pursuant to its inspection program, and had no notice of any issue before September 13, 2024.

OPC's position would require the Commission to conclude that a utility violates Section 393.130.1 whenever utility-owned equipment fails, even when the utility has complied with its inspection requirements, identified no defect, and promptly responded once notified of the condition. That is not a reasonable interpretation of the statute. Section 393.130.1 does not impose strict liability. Rather, it requires utilities to provide service that is safe, adequate, just, and reasonable. The evidence presented in this case established precisely that.

III. THE EVIDENCE PRESENTED AT HEARING FALLS SQUARELY WITHIN THE CIRCUMSTANCES CONTEMPLATED BY AMEREN MISSOURI'S COMMISSION-APPROVED TARIFF.

Ameren Missouri's Continuity of Service tariff is not an attempt to avoid statutory obligations. Rather, it reflects the Commission's recognition that interruptions, deficiencies, and imperfections in electric service can occur despite the exercise of reasonable care.

The tariff provides that Ameren Missouri will make all reasonable efforts to provide adequate and continuous service but recognizes that the Company cannot guarantee uninterrupted service and will not be liable for service interruptions, deficiencies, or imperfections resulting from conditions beyond the reasonable control of the Company. The tariff further advises customers to

install suitable protective equipment where service interruptions or irregularities may damage customer equipment.

Importantly, OPC does not contend that the tariff is unlawful. Nor does OPC argue that Ameren Missouri failed to comply with any provision of the tariff. Instead, OPC argues that Ameren Missouri should be found liable because utility-owned equipment failed.

The evidence presented at hearing demonstrates precisely why the Commission approved this tariff language. Mr. Kemp subsequently inspected the damaged facilities and observed physical evidence of squirrel activity on the damaged conductor. (*Tr. p. 192, ll. 3-5*). Kemp testified that squirrel damage can occur after an inspection has been completed and that the condition observed on September 13, 2024 was consistent with animal-caused damage. (*Tr. p. 192, ll. 3-5*).

The evidence therefore established that the September 13, 2024 service event resulted from animal activity that occurred after Ameren Missouri had inspected the facilities and found no condition requiring repair. This is precisely the type of unforeseen event that the Commission recognized may occur despite the exercise of reasonable care when it approved Ameren Missouri's Continuity of Service tariff.

Moreover, the evidence established that Ameren Missouri acted consistently with the obligations imposed by the tariff. Upon receiving notice of the condition, Ameren Missouri immediately dispatched personnel, repaired the damaged facilities, and restored service within approximately one hour. (*Tr. p. 83, l. 22 through p. 84, l. 6*). There is no evidence that Ameren Missouri ignored a known defect, failed to perform a required inspection, failed to respond to a reported condition, or otherwise failed to exercise reasonable care.

The Commission should therefore consider the tariff for what it is: not a shield for misconduct, but a recognition that electric utilities cannot guarantee perfect service and that interruptions caused by circumstances beyond the utility's reasonable control may occur despite compliance with reasonable inspection and maintenance practices.

V. MISSOURI GAS ENERGY DOES NOT CONTROL THIS CASE.

OPC relies heavily upon *Public Service Commission v. Missouri Gas Energy*¹ and argues that Ameren Missouri's tariff cannot shield it from liability. Ameren Missouri does not disagree with the general proposition that a tariff cannot excuse a utility from complying with its statutory obligations. That principle, however, has no application here because neither OPC nor Complainants established that Ameren Missouri violated any statutory obligation in the first instance. Ameren Missouri is not arguing that its tariff excuses unlawful conduct. Ameren Missouri is arguing that Complainants failed to prove any unlawful conduct.

The Missouri Gas Energy case addressed whether a tariff could affect common-law negligence liability. This proceeding does not involve a negligence claim. Nor is the Commission being asked to determine whether Ameren Missouri was negligent. The Commission is being asked to determine whether Ameren Missouri violated a statute, Commission rule, tariff provision, Commission order, or Commission decision.

Because Complainants failed to establish any such violation, Missouri Gas Energy does not alter the outcome of this case.

Respectfully Submitted,

¹ *Public Service Comm'n of State v. Missouri Gas Energy*, 388 S.W.3d 221 (Mo. App., W.D. 2012).

/s/ Carla Fields Johnson

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to the parties of record on
this 22nd day of June 2026.

/s/ Carla Fields Johnson