

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

Andrew Monroe,

Complainant,

vs.

Union Electric Company, d/b/a

Ameren Missouri,

Respondent.

Case No. EC-2013-0376

**ANSWER AND MOTION TO DISMISS OR IN THE ALTERNATIVE,
MOTION FOR A MORE DEFINITE STATEMENT**

COMES NOW Union Electric Company d/b/a Ameren Missouri, formerly AmerenUE (“Ameren Missouri” or “Company”), and in response to Complainant’s Complaint states as follows:

ANSWER

1. On January 30, 2013, Andrew Monroe (“Complainant”), with a residence and mailing address of 102 Bobs Lane, Troy, Missouri 63379, filed a complaint against Company (the “Complaint”).

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

3. The Company admits the allegations of paragraph 1 of the Complaint but notes that the legal name of the Company is Union Electric Company and the fictitious name under which the Company is now doing business is Ameren Missouri.

4. In response to the allegations of paragraph 2 of the Complaint, the Company admits certain facts alleged therein, denies certain facts alleged therein, and is without sufficient information to form a belief as to the truth of certain facts alleged therein and therefore denies them, as follows:

- a. The Company admits: that On July 24, 2012, a neutral conductor below the Company’s single 12kV three phase circuit fed from the Company’s Troy, Missouri substation (the “Troy 52 feeder”) broke in front of Cuivre River Electric Cooperative’s Troy, Missouri office; that Complainant filed a claim with the Company’s third party claims administrator, Corporate Claims Management, Inc.

(“CCMI”); that CCMI denied the claim; that Claimant asked to see an engineer’s report regarding the line but none was provided; that Claimant contacted the Better Business Bureau (BBB); that Claimant contacted the Commission; and that Alan Bax contacted the Company to investigate Complainant’s allegations.

- b. The Company denies Complainant’s allegations: that when the Company’s neutral conductor broke, it caused a power surge on Cuivre River Electric Cooperative’s phase conductors located below the said neutral conductor; that none of Complainant’s questions were answered; that nothing happened when Complainant contacted the BBB; and that the Company would not respond to Alan Bax.
- c. The Company is without information sufficient to form a belief about the following allegations of Complainant and therefore denies the same: that the break in the Company’s neutral conductor caused damage to several items in Complainant’s home; and that Complainant contacted the Company and informed the Company of his intentions and that the Company still insisted he had no claim.

5. In response to paragraph 3 of the Complaint, the Company is without information sufficient to form a belief about whether the Complainant contacted the Company after Complainant contacted the Commission and therefore denies the same. The Company admits the remaining allegations of paragraph 3.

6. In further answer, the Company admits that when said neutral conductor broke, it came into contact with Cuivre River Electric Cooperative’s phase conductors located directly below the said neutral conductor, which contact caused Cuivre River Electric Cooperative’s system in the immediate vicinity to experience an outage.

7. In further answer, the Company states that the break in said neutral conductor was caused by a failure or imperfection of service beyond the reasonable control of the Company. As required by 4 CSR 240-23.020(3)(A), the Company performed its regularly-scheduled ground line inspection of each structure on the Troy 52 feeder in 2009, and a visual inspection of the Troy 52 feeder, including all its structures and conductors, in 2010. In addition, in 2009 when the Company added a 12kV circuit to the same structures in the immediate vicinity of Bob’s Lane used for the Troy 52 feeder, it also inspected its structures and circuits. During each such inspection no errors, failures or irregularities in the operation of said neutral conductor, or of any other equipment in the immediate vicinity of Bob’s Lane, were detected.

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8. The Complaint fails to allege a violation by the Company of any particular tariff, statute, rule, order or decision within the Commission's jurisdiction, which alleged violations, per 4 CSR 240-2.070(1) and (2) are the bases upon which a formal or informal complaint may be filed with the Commission.

9. In addition, for his relief, Complainant requests, "restitution to pay for the items ruined. I asked for \$2,900 to replace items." This is not a claim for which relief can be granted. The Commission is a regulatory body of limited jurisdiction having only such powers as are conferred by statute, is not a court, and has no power to determine damages, or award damages or pecuniary relief. *American Petroleum Exchange v. Public Service Commission*, 172 S.W.2d 952, 955 (Mo. 1943); *State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz*, 596 S.W.2d 466 (Mo. App. W.D. 1980). Because the Commission cannot enter a monetary judgment against the Company, the Company believes it is proper for the Commission to dismiss the Complaint for failure to state a claim for which relief can be granted by the Commission. The Commission may do so on its own motion, or on the motion of any party, after notice. 4 CSR 240-2.070(7).

10. Because the alleged incident identified in the Complaint might potentially give rise to a claim of a violation of some statute, rule, order or decision within the Commission's jurisdiction (as yet unidentified), for which the Commission might have jurisdiction to grant some form of relief (also as yet unidentified), the Company believes it would be appropriate for the Commission, in the alternative, to grant Complainant leave to amend the Complaint to make such a claim.

11. The following attorneys should be served with all pleadings in this case:

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WHEREFORE, Company respectfully requests that the Commission enter its order:

- (a) dismissing the Complaint for failure to state a claim upon which relief can be granted, or in the alternative,
- (b) finding Complainant has failed to state a claim upon which relief can be granted but granting Complainant leave to amend his Complaint to make a more definite statement alleging a violation of statute, rule, order or decision within the Commission's jurisdiction and asking for relief that can be granted by the Commission.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Answer and Motion to Dismiss or in the Alternative, Motion for a More Definite Statement was served on the following parties via electronic mail (e-mail) or via regular mail on this 1st day of March, 2013.

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