

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

Dora M. Middleton)	
Complainant,)	
)	
vs.)	Case No: EC-2018-0076
)	
Union Electric Company, d/b/a)	
Ameren Missouri,)	
Respondent.)	

**MOTION TO DISMISS OR IN THE ALTERNATIVE
TO AMEND THE PROCEDURAL SCHEDULE**

COMES NOW, Union Electric Company, d/b/a Ameren Missouri (“Ameren Missouri” or “Company”), and in support of its Motion to Dismiss or in the Alternative to Amend the Procedural Schedule states as follows.

1. On February 23, 2018, the Commission entered its *Order Setting Procedural Schedule and Other Procedural Requirements* (the “*Order*”) in this small formal complaint case, in which at ordering paragraph 1 the Commission established April 27, 2018 as the date by which Complainant must file direct testimony or an indication that her *Complaint* would be her direct testimony.

2. Similarly, at ordering paragraph 2 of the *Order*, the Commission established May 11, 2018 as the date by which Ameren Missouri must file rebuttal testimony.

3. Prior to April 27, 2018, Complainant did not ask the Commission for an extension of time, pursuant to the Commission’s authority at 4 CSR 240-2.050(3)(A), to enlarge the period ending April 27, 2018 that was originally prescribed for her to either file direct testimony or indicate that her *Complaint* would be her direct testimony. As of the date of this filing, Complainant has not filed direct testimony or filed anything indicating that her *Complaint* would be her direct testimony. Nor has Complainant demonstrated, pursuant to 4 CSR 240-2.050(3)(B), that there was good cause for her failure to do so or that it was the result of excusable neglect.

4. As a result of Complainant’s failure, the Company has been unable to prepare and file any rebuttal testimony, despite its May 11, 2018 deadline to do so.

5. 4 CSR 240-2.116(3) provides that, “[a] party may be dismissed from a case for failure to comply with any order issued by the Commission[.]” 4 CSR 240-2.116(4) provides that, “[a] case may be dismissed for good cause found by the Commission after a minimum of ten (10) days notice to all parties involved.” Good cause exists to dismiss this Complaint because Complainant has failed to comply with a Commission order, has not timely asked for an extension of time to comply, and has not shown good cause for her failure or that it was the result of excusable neglect.

6. Should Complainant demonstrate to the Commission that her failure to meet her April 27, 2018 deadline was the result of excusable neglect or good cause, such that the Commission finds that the Complaint should not be dismissed and orders an extension of time within which Complainant may file direct testimony or indicate that her Complaint will serve as her direct testimony, then good cause will exist to grant the Company an extension of time to file its rebuttal testimony.

7. In the alternative, in view of the upcoming evidentiary hearing in this Complaint scheduled for June 8, 2018 and the fact that this is a small formal complaint case, and pursuant to the authority granted at 4 CSR 240-2.070(15)(F)2, the Commission could amend its *Order*, to dispense with pre-filed written testimony altogether.

WHEREFORE, for the forgoing reasons, the Company respectfully requests that the Commission: a. dismiss this Complaint for Complainant’s failure to comply with the *Order*, or in the alternative, b. amend the procedural schedule to extend Ameren Missouri’s deadline to file rebuttal testimony to a date at least 14 days after Complainant has filed direct testimony or indicated that her Complaint will be her direct testimony, or in the alternative, c. amend the procedural order to dispense entirely with the filing of pre-filed written testimony by any party.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to Dismiss or in the Alternative to Amend the Procedural Schedule was served on all of the following parties via electronic mail (e-mail), and also served on Complainant via U.S. Mail, on this 8th day of May, 2018.

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