

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

N&N FARMS, INC., ROBERT T.)
NOLAND TRUST and TOM and BONITA)
TARWATER,)

Complainants,)

vs.)

Case No: EC-2013-0420

UNION ELECTRIC COMPANY d/b/a)
AMEREN MISSOURI,)

Respondent.)

ANSWER

COMES NOW Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or “Respondent”), and pursuant to the Commission’s March 18, 2013 *Order Giving Notice of Contested Case, Directing Answer and Directing Staff Investigation*, hereby files its Answer, as follows:

Filed concurrently herewith is Ameren Missouri’s Motion to Dismiss based upon the failure of the Complainant to state a claim upon which relief can be granted and other grounds. By filing this Answer in compliance with the Commission’s above-referenced Order, Ameren Missouri does not waive any defense or grounds for dismissal nor does it concede or consent to the Commission’s authority or jurisdiction to hear the Complaint.

With respect to that portion of the Complaint appearing before numbered Paragraph 1, to the extent said portion contains factual allegations, the Company states that it is without sufficient knowledge, information or belief to admit or deny such allegations and therefore denies the same.

With respect to the numbered paragraphs of the Complaint, Ameren Missouri answers the same by correspondingly numbered paragraphs, as follows:

1. Respondent admits the allegations stated in Paragraph 1.

2. Respondent admits that it is generally subject to the jurisdiction of the Commission to the extent that jurisdiction is afforded the Commission per statute, but denies the remaining allegations stated in Paragraph 2, including specifically that the Commission has jurisdiction or authority over this Complaint.

3. Respondent admits that it filed an application with the Commission for a certificate of public convenience and necessity (“CCN”) to construct an 855¹ foot section of sub-transmission line outside its service territory (a “line certificate”) within an area comprising a part of Kansas City Power & Light – Greater Missouri Operation’s certificated service territory. Respondent admits that the line certificate was for the 855 feet portion of the proposed line that is located outside of Respondent’s certificated service territory and that the 855 feet of line is a part of a longer (approximately 12,000 feet) sub-transmission line needed to serve a customer (the LMV Automotive Systems plant in Liberty, Missouri) located within Ameren Missouri’s certificated service territory. By way of further answer Respondent states that the entire line, with the exception of the 855 feet, is located within Ameren Missouri’s certificated service territory. Respondent admits the remaining allegations stated in Paragraph 3.

4. Respondent admits the allegations stated in Paragraph 4.

5. Respondent admits the allegations stated in Paragraph 5.

6. Respondent admits the allegations in the first sentence of Paragraph 6.

Respondent is without sufficient knowledge, information or belief to admit or deny the

¹ Complainants referred to the length of this section as 885 feet, it is actually 855 feet.

allegations in the second sentence of Paragraph 6 and therefore denies the same. Respondent denies the allegations in the third sentence of Paragraph 6.

7. Respondent is without sufficient knowledge, information or belief to admit or deny the allegations stated in Paragraph 7 and therefore denies the same.

8. Respondent is without sufficient knowledge, information or belief to admit or deny the allegations stated in Paragraph 8 and therefore denies same. By way of further answer, Respondent states that Complainants were not entitled to notice or an opportunity for a hearing as a matter of law and have suffered no legally cognizable injury or harm.

9. Respondent denies the allegations stated in Paragraph 9.

10. Respondent denies the allegations stated in Paragraph 10.

11. Respondent denies the allegations stated in Paragraph 11 and further states that to the extent Paragraph 11 states a legal conclusion no answer is required.

12. Respondent admits that Complainants have accurately reproduced a portion of the Commission's rule on intervention requests but denies the remaining allegations stated in Paragraph 12.

13. Respondent states that to the extent Paragraph 13 states legal conclusions no answer is required, and further answering states that to the extent Paragraph 13 contains factual allegations Respondent denies the same.

14. Respondent admits the allegations stated in Paragraph 14.

15. Respondent denies the allegations stated in Paragraph 15.

16. Respondent denies the allegations stated in Paragraph 16.

17. Respondent denies the allegations stated in Paragraph 17.

18. Respondent states that to the extent Paragraph 18 states legal conclusions no answer is required, and further answering states that to the extent Paragraph 18 contains factual allegations, Respondent denies the same.

AFFIRMATIVE DEFENSES

19. The Complaint fails to state a claim upon which relief may be granted.

20. The Complaint constitutes an unlawful collateral attack on the Commission's January 3, 2013 *Order Granting Certificate of Convenience and Necessity*, in violation of Section 386.550, RSMo. (2000) and other applicable principles of law.

21. The relief sought by the Complaint is beyond the power or authority of the Commission to grant in that (a) the Commission cannot "reopen Case Number AE[sic]-2013-0316" because the time for rehearing pursuant to Section 386.500, RSMo. has passed, and the time for reconsideration (which applies only to procedural or interlocutory orders – see 4 CSR 240-2.160(2)) has passed; and (b) the Commission has no power or authority to declare or enforce any principle of law or equity, including to issue injunctive relief (the "cease and desist" mentioned by Complainants).

23. Complainants have suffered no legally cognizable harm or injury.

24. The Commission lacks the power or authority to address the matters in the Complaint.

WHEREFORE, having fully answered, Ameren Missouri respectfully requests that the Commission issue an order dismissing the Complaint with prejudice.

Respectfully Submitted,

/s/ **James B. Lowery**

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**ATTORNEYS FOR UNION ELECTRIC
COMPANY d/b/a AMEREN MISSOURI**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Answer was served on the following parties via electronic mail (e-mail) or via certified and regular mail on this 17th day of April, 2013.

/s/ Wendy K. Tatro
Wendy K. Tatro