

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office
in Jefferson City on the 30th
day of June, 1992.

Danny T. Sewell, d/b/a Dan's Antiques,)	
)	
Complainant,)	
)	
v.)	<u>Case No. EC-92-278</u>
)	
Missouri Public Service, a division of)	
UtiliCorp United Inc.,)	
)	
Respondent.)	
)	

ORDER DISMISSING COMPLAINT

On May 15, 1992, Danny T. Sewell, d/b/a Dan's Antiques, (Sewell) filed a Complaint against Missouri Public Service, a division of UtiliCorp United Inc. (MoPub) and stated therein that between July 1987 and March 1992 MoPub had incorrectly undercharged Sewell due to miscalculation of multipliers on his electric meter, and that Sewell should be excused from the application of Section 5.04(c) of MoPub's electric tariff, which addresses undercharges to customers. On June 19, 1992 MoPub filed its Answer to the Complaint and asked the Commission to dismiss the Complaint in that MoPub had complied fully with the requirements of its electric tariff dealing with billing adjustments for undercharges.

The Commission determines that Sewell's Complaint should be dismissed. There is no disagreement that Sewell was in fact undercharged for electricity during the period from July 1987 through March 1992 due to the application of an improper demand constant. MoPub applied a multiplier of "one" rather than the correct multiplier of "forty", which resulted in Sewell being billed for one-fortieth (1/40) the electricity actually consumed. Upon discovery of this situation, MoPub notified Sewell that it would seek \$2,072.90 in past

underbillings, such sum representing the difference between what Sewell paid and what he actually owed for the twelve-month period immediately preceding discovery of the loss. MoPub then notified Sewell that he could pay \$172.74 per month for twelve months to satisfy the debt. MoPub's Billing Adjustments tariff that addresses undercharges as exist in this case is in Section 5.04(c) of "P.S.C. Mo. No. 2, Original Sheet No. R-25" of MoPub's electric rules and regulations and reads as follows:

Any overcharge based upon defective demand metering equipment, incorrect registration of demand due to improper demand meter connections, the application of improper demand constants, or, related circumstances shall be subject to adjustment for the entire period during which such condition existed, but not to exceed sixty consecutive billing periods, calculated from date of discovery, inquiry or actual notification of Missouri Public Service. In the event the Customer was undercharged, a billing adjustment shall be made for the period during which such condition existed, but not to exceed the beginning of the twelfth billing period immediately preceding the billing period in which such condition was found to have existed.

Sewell's main claim is that had the billing error not been made, and had he been billed properly from the beginning, he would have taken measures to control the kilowatt usage to lower the billing. Sewell has made several offers of settlement, according to the Complaint, other than the procedure as set out in Section 5.04(c) of MoPub's electric tariff.

The Commission has already determined Section 5.04(c) of MoPub's electric tariff to be fair and reasonable in approving it. All the undisputed facts indicate that MoPub has complied with its billing adjustment mandates as set out in Section 5.04(c) that apply to the facts of this case.

Pursuant to 4 CSR 240-2.070(6), the Commission may dismiss, without argument and without hearing, a complaint for failure to state facts upon which relief can be granted. The Commission determines, therefore, that there is no issue of fact to be resolved and that MoPub has complied with the mandates of its electric tariffs as applied to the facts of the case and that the Complaint of

Sewell should be dismissed for failure to state facts upon which relief can be granted.

IT IS THEREFORE ORDERED:

1. That the Complaint in this case filed by Danny T. Sewell, d/b/a Dan's Antiques, against Missouri Public Service, a division of UtiliCorp United Inc., be dismissed for failure to state facts upon which relief can be granted.

2. That this order shall become effective on the 10th day of July, 1992.

BY THE COMMISSION

Brent Stewart

Brent Stewart
Executive Secretary

(S E A L)

Mueller, Rauch, Perkins
and Kincheloe, CC., concur.
McClure, Chm., absent.

