

B
A
B

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 11th
day of March, 1998.

Baden Automotive Center, Inc.,)	
)	
Complainant,)	
)	
vs.)	<u>Case No. EC-98-281</u>
)	
Union Electric Company,)	
)	
Respondent.)	

ORDER DIRECTING STAFF INVESTIGATION AND REPORT

On January 8, 1998, Baden Automotive Center, Inc. (Complainant or Corporation) filed a Complaint against Union Electric Company (UE or Respondent). Complainant alleged that in April of 1997 UE unilaterally changed the name of Complainant's account from "Baden Automotive Center, Inc." to "Ralph Campbell, d/b/a Baden Automotive Center." At that same time UE transferred approximately \$6,000 in billings to Ralph Campbell, and threatened to disconnect services of Complainant if the bills of Ralph Campbell were not paid. The Complaint stated that to the best of Complainant's knowledge, Ralph Campbell is not a director nor shareholder of Baden Automotive Center, Inc., and UE has no justification for transferring any obligations of Ralph Campbell to Complainant. Complainant states that it does business at 8005 North Broadway, St. Louis.

Complainant alleged that Complainant talked to representatives of UE in excess of forty times by telephone in an attempt to resolve this problem. Complainant stated it has also faxed copies of its Articles of

Incorporation, its Missouri dealer's license, and provided to UE information regarding the identity of its board of directors. Complainant states it has continued to act in good faith in an attempt to resolve this obvious mistake. Therefore, Complainant requests that UE be required to immediately reconcile its account balance and delete any and all charges due from anyone other than Baden Automotive Center, Inc., and to specifically remove any charges not an obligation of this corporate Complainant.

On February 2 UE filed a Response to Complaint which indicated that UE established accounts in the name of Baden Automotive Center, Inc. as follows:

8005 N. Broadway	06-06-233-0570-78	11/09/91
8001 N. Broadway	06-06-233-0180-62	05/01/91
8001 N. Broadway, lower level	06-06-233-0181-38	08/21/92
7951 N. Broadway	06-06-232-5181-12	11/15/91
7951 N. Broadway, dusk-dawn	06-06-232-5190-11	06/10/91
7947 N. Broadway	06-06-232-4710-49	12/03/94

UE alleged that on March 27, 1997, it changed the name of each of the above accounts to "Campbell Ralph D d/b/a Baden Automotive" based on the following facts: (1) the Missouri Secretary of State administratively dissolved the Corporation on August 31, 1994; (2) Ralph Campbell signed checks for payment on the above accounts; and (3) Ralph Campbell signed the application for a City of St. Louis business license for the operation of the business at 8005 N. Broadway dated July 11, 1996, as President of Baden Automotive Center. UE stated that after it changed the name of the accounts pursuant to Section V(F) of its Missouri Electric General Rules and Regulations (Sheet 169) UE transferred \$1,922.77 into account 06-06-233-0570-78 which was the balance of an inactive commercial account in the name of "Ralph Campbell d/b/a Hazelwood Acceptance" for service to 9009 Dunn Rd. from June 16, 1983 through January 13, 1988. UE also transferred

\$538.08 into account 06-06-232-5181-12 which was the balance of an inactive commercial account in the name of "Ralph Campbell" for service to 7954 N. Broadway from November 2, 1987 to July 15, 1988.

UE alleges on information and belief that Ralph Campbell has been closely involved in the affairs of the corporation. UE states that beginning on April 2, 1997, an individual named Mike Johnston telephoned several UE employees to complain about the name change and transfers, and Mr. Johnston at first denied knowing Ralph Campbell. According to UE, Mr. Johnston changed his statement after he was confronted with the information regarding the St. Louis City business license, and he said that Ralph Campbell was previously involved in the business, but no longer involved. UE stated that after confronted with the fact that Ralph Campbell signed checks as recently as March 10, 1997, for payment of the above accounts, Mr. Johnston again changed his statement and admitted that Ralph Campbell was involved in the operation of the business.

UE stated that when it was clear that UE would not change its position, someone filed the required forms to have the corporation reinstated, and Mr. Johnston then informed UE that the corporation had been reinstated. UE alleged that it obtained a copy of a 1996 Annual Registration Report filed with the Missouri Secretary of State on May 14, 1997, which shows Ralph Campbell as President and Raymond Jackson as Secretary and sole Director. On June 25, 1997, UE submitted a letter notifying Ralph Campbell that UE did not intend to comply with Mr. Johnston's request to change the name of the accounts back to a corporate name and reverse the transfers because "It is our (UE's) position that there is a deliberate attempt to avoid responsibility of payment of bills." The letter further stated that UE's position may change should UE obtain

credible information regarding the practices and relationships of the individuals involved in the operation of the business.

UE denies that it threatened to terminate service to any of the above accounts as a result of the above-described transfers. UE states, however, that it did threaten to terminate service to 7945(1f) N. Broadway, account 06-06-232-4510-33 in the name of Family Heritage Investment Trust Inc., which is a separate dissolved corporation in which UE believes Ralph Campbell is also involved. On March 27, 1997, UE transferred four outstanding balances totaling \$2,098.29 to the account and threatened to terminate service if the transferred balances were not paid. The four outstanding balances were:

\$1,440.37 for account 06-06-233-0180-54 in the name of "Family Heritage Investment Incorporated" for service to 8001 N. Broadway from July 12, 1990, to May 1, 1991.

\$464.87 for account 06-06-232-5190-03 in the name of "Family Heritage Invest" for service to 7951 N. Broadway, dusk-dawn from March 7, 1990, to May 1, 1991.

\$163.92 for account 06-06-232-5181-04 in the name of "Family Heritage Inv Corp Ralph Campbell" for service to 7951 N. Broadway from January 15, 1990 to November 15, 1991.

\$29.13 for account 06-06-232-4551-58 in the name of "Family Heritage Investment Trust Inc" for service to 7945 (2fN) N. Broadway from June 14, 1996 to December 9, 1996.

UE denies that Complainant has talked with representatives of UE in excess of forty times. UE states that only once did Raymond Jackson, Secretary and sole Director of the reinstated corporation, communicate with a UE representative. UE states that Mike Johnston, who claims he is the manager of the corporation, verbally communicated with UE on many occasions. UE states on information and belief that Mr. Johnston is not an officer or director of the corporation. UE states Complainant has supplied only two documents to UE: a poor quality, barely legible, copy of the Articles of Incorporation dated June 6, 1991, and a copy of a "Dealer License" issued

by the Missouri Department of Revenue Motor Vehicle Commission to the Corporation on January 9, 1996.

UE states that Ralph Campbell, the President of the Corporation according to the last Annual Report, has not responded to any written correspondence directed to him, and has not volunteered to discuss this matter. UE states that it explained several times to Mr. Johnston that UE may consider changing its position if Mr. Campbell and Mr. Jackson would be willing to meet and answer questions regarding the operation of the business. Therefore, UE denies that the Complainant has continued to act in good faith in an attempt to resolve this dispute.

UE requests that the complaint be dismissed for failure to state a claim for which relief can be granted, or, in the alternative, that the Commission hear and consider all evidence and find that UE's practices are appropriate.

The Commission has reviewed the complaint filed by the Corporation and the response filed by UE. The Commission notes that Complainant did not file a response to UE's motion to dismiss although Complainant had ten days to respond pursuant to Commission rule 4 CSR 240-2.080(12). The Commission further notes that the Office of the Public Counsel (Public Counsel) did not file a pleading in this case even though Public Counsel has the statutory duty to represent the public before the Commission.

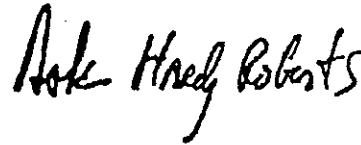
The Commission finds this is an appropriate case in which its Staff should be directed to investigate further into the facts surrounding the complaint. The Electric Department Staff, along with the Office of the General Counsel of the Missouri Public Service Commission, should be directed to investigate the allegations set forth in the complaint and to file a report setting out its findings in this case. The Commission will not rule on UE's motion to dismiss until after Staff files its report.

IT IS THEREFORE ORDERED:

1. That the Electric Department Staff, along with the assistance of the Office of the General Counsel of the Missouri Public Service Commission, shall investigate the allegations set out in the complaint filed herein and shall file a report of their findings in this case. Such report shall be filed no later than April 10, 1998.

2. That this order shall become effective on March 24, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Murray,
and Drainer, CC., concur.

G. George, Regulatory Law Judge

RECEIVED

MAR 11 1998

COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION