

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

Peter Howard,	)	
	)	
Complainant,	)	
	)	
v.	)	<b><u>File No. EC-2013-0524</u></b>
	)	
Ameren Missouri,	)	
	)	
Respondent.	)	

**STAFF REPORT AND RECOMMENDATION**

**COMES NOW** the Staff of the Missouri Public Service Commission ("Staff"), by and through the undersigned counsel, and files this Report and Recommendation with the Missouri Public Service Commission ("Commission") and states as follows:

1. On June 17, 2013,<sup>1</sup> Complainant Peter Howard filed a *Complaint* with the Commission against Union Electric Company, d/b/a Ameren Missouri ("Ameren Missouri").

2. On July 18, the Commission issued its *Order Directing Staff To File A Recommendation And Order Setting Prehearing Conference* ("Order"). The Order directed Staff to investigate the *Complaint* and to file a report and recommendation no later than August 15. This filing is in compliance with the Commission's *Order*.

3. Attached hereto is Staff's Report. The Report is being filed as highly confidential pursuant to Commission Rule 4 CSR 240-2.070 (11).

**NP**

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<sup>1</sup> All dates herein refer to calendar year 2013, unless otherwise specified.

4. As discussed therein, Staff has conducted an investigation and reviewed information provided by both the Complainant and Ameren Missouri to come to its recommendation.

5. Staff believes that of the \*\* [REDACTED] \*\* Mr. Howard now alleges is wrongfully charged to him, \*\* [REDACTED] \*\* has in fact been previously investigated and decided by the Commission's *Report and Order* in File No. EC-2008-0329. The Commission's 2008 *Report and Order* regarding the billed amount states:

There is no evidence in the record to suggest that AmerenUE charged any rate for usage other than the properly approved tariff rate. The controversy lies in how much electricity was used at 4111 Maffitt. The Commission concludes that AmerenUE charged the correct and lawful rate for usage at 4111 Maffitt.<sup>2</sup>

Further, the Commission's 2008 *Report and Order* states:

Mr. Howard has failed to sustain his burden of proving, by a preponderance of the evidence, that AmerenUE unlawfully charged him for electric service 4111 Maffitt. The relief Mr. Howard requested, i.e., the elimination of his account balance of \*\* [REDACTED] \*\*, is denied.<sup>3</sup>

The Commission dismissed another complaint filed by Mr. Howard in April 2010 in File No. EC-2010-0285. In that case, the Commission dismissed the complaint due to Mr. Howard's failure to act on the Commission's Order to show-cause and submit a form requested by the Commission.

6. Staff recommends the Commission find Ameren Missouri has not violated any Missouri Statute, Commission rule or any provision of Ameren Missouri's Commission-approved tariff. Unless the Commission wants to reconsider its previous decision made in the 2008 case, Staff recommends the Commission dismiss the portion

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<sup>2</sup> File No. EC-2008-0329, *Report and Order*, p. 14.

<sup>3</sup> *Id.* at 15.

of the current complaint that involves the \*\* [REDACTED] \*\* of the prior balance because the Commission has already reviewed and decided this amount that is again part of this *Complaint*.

7. Section 386.550, RSMo (2000) provides: “Order to be conclusive. — In all collateral actions or proceedings the orders and decisions of the commission which have become final shall be conclusive.” The Commission may dismiss the part of the current *Complaint* regarding the \*\* [REDACTED] \*\* because it is an impermissible collateral attack on the final *Report and Order* issued by the Commission in File No. EC-2008-0329 that became effective December 21, 2008.

8. Ameren Missouri is current on the submission of its calendar year 2012 annual report and has remitted the first quarterly payment of its fiscal year 2014 assessment.

9. Staff is not aware of any other matter before the Commission that may affect or be affected by the Commission’s decision in this case.

**WHEREFORE**, Staff submits this Report and Recommendation for the Commission’s information and consideration and recommends the Commission dismiss the part of the current *Complaint* regarding the \*\* [REDACTED] \*\*, and for the remaining amount in dispute find Ameren Missouri has not violated any Missouri Statute, Commission rule or any provision of Ameren Missouri’s Commission-approved tariff.

Respectfully submitted,

**/s/ Jennifer Hernandez**

Jennifer Hernandez  
Senior Staff Counsel  
Missouri Bar No. 59814  
Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751- 8706 (Telephone)  
(573) 751-9285 (Fax)  
[jennifer.hernandez@psc.mo.gov](mailto:jennifer.hernandez@psc.mo.gov)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served electronically on this 15<sup>th</sup> day of August 2013 to the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

**/s/ Jennifer Hernandez**

THIS STAFF REPORT  
& ATTACHED  
SCHEDULES HAVE  
BEEN DEEMED HIGHLY  
CONFIDENTIAL IN  
THEIR ENTIRETY.