

ORIGINAL

**Chief Clerk
ILLINOIS COMMERCE COMMISSION
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Springfield IL 62794**

November 17, 2009

CHIEF CLERK'S OFFICE

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ILLINOIS
COMMERCE COMMISSION

**PAULA JOHNSON
715 NORTH 24TH STREET
EAST ST. LOUIS, ILLINOIS 62205
COMPLAINANT,**

VS.

FORMAL COMPLAINT 09-0193

**AMEREN IP
ILLINOIS POWER COMPANY
MATT TONK, LEGAL DEFENSE
1901 CHOUTEAU AVENUE
MAILSTOP 1310
ST. LOUIS, MISSOURI 63166
PHONE: 314-554(534)-4673
RESPONDENT.**

COMPLAINANT'S AMENDED REBUTTAL TESTIMONY

This is Complainant's Amended Rebuttal Testimony in response to Respondent's Amended Answer and Amended Direct Testimony. Petitioner filed her Opposition of Respondent's Amended Filings, and was denied November 4, 2009.

- I. Complainant readopts and realleges Count I. through Count XI found in her Original Formal Petition, and inserts in each Count "Punitive Damages" of \$50,000.00, and readopts Complainant's Actual Damages of \$17,892.00.
- II. In the above-entitled action Complainant's inserts in Count XII, Negligent Infliction of Emotional Distress, with punitive damages of \$125,000.000.

Count I. Violations Under The Duty to Serve -- In General

Count II. Violations Under Deposits as a Condition of Service

Count III. Violations Under Denials Based on Unrelated Bills

Count IV. Violations Under Service When a Bill is in Dispute

Count V. Violations Under The Landlord's Duty to Provide Utility Service

Duties Imposed By Law or Lease

Count VI. Violations Under When the Landlord Fails to Pay the Utility Bill

**Count VIII. Violations Under If Your Bill Includes Service to Common Areas or to
Other Units**

Count IX. Violations Under Winter Shutoff Rules

Count X. Violations Under Reconnection Rules After a Shutoff

Count XI. Violations Under The Low-Income Home Energy Assistance Program

(LIHEAP)

III. Complainant further states that she readopts and realleges her supporting Exhibits in her Direct Testimony of Respondents as "Petitioner's Exhibit's A through M";

EXHIBIT "A" "Urban League of Metropolitan St. Louis dated June 23, 2009"

EXHIBIT "B" "Catholic Urban Programs, dated June 10, 2009".

EXHIBIT "C" "Intergovernmental Grants Department"

EXHIBIT "D" "Mo. Department of Health and Human Services Dated June 25, 2009"

EXHIBIT "E" Refer to Complainant's Photographs of Meter

EXHIBIT "F" Refer to Complainant's Photographs of Meter

EXHIBIT "G" Refer to Complainant's Photographs of Meter

EXHIBIT "H" Better Business Bureau, dated June 13, 2009".

EXHIBIT "I" "Citizens Utility Board dated August 18, 2009"

EXHIBIT "J" "Ameren Letter dated July 1, 2009";

EXHIBIT “K” “Illinois Commerce Commission Letter dated June 10, 2009”.

EXHIBIT “L”, “Illinois Commerce Commission Annual Report 2008

EXHIBIT “M”, “Cause Number 4-02-0443 State of Illinois Appellate Court, Ameren vs. Illinois Commerce Commission”.

COUNT XII, NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

Complainant readopts and realleges Count I. through Count XI, and inserts in Count XII- Negligent Infliction of Emotional Distress and states in support that,

1. Respondents prior and during these proceedings have placed fraudulent, concocted information in the Record that Respondents hold in Ameren Account Numbers Account Number 76875-97006. Ameren Illinois Power Company Account Number 70574-90764. Account 76875-97015. Ameren Account Number 76875-97024.
2. Respondents prior and during these proceedings have unlawfully shut off the Gas Utility Service to Petitioners residence without the Posting of Notices, and in violation of Medical Necessity guidelines.
3. Occupants of Petitioners disabled household have suffered physically and mentally, and have incurred Medical expenses that the Respondents are liable for.
4. Respondents have trumped up fraudulent Utility Service Charges on a defective gas meter owned by Respondents and attached to the property of Complainant, prior and during these proceedings.
5. Respondents have made numerous attempts to make a fraudulent creditors claims to Collection Agencies during these proceedings before the Illinois Commerce Commission.
6. In violation of (735 ILCS 5/13-202) (from Ch. 110, par. 13□202)

Sec. 13-202. Personal injury - Penalty. Actions for damages for an injury to the person. Complainant's entire household have suffered substantial damages consisting of severe mental and emotional distress, pain and suffering, the loss of a normal family life for them and their other children, the loss of the time spent dealing with [the resident child's] issues, and the expenses incurred in connection with [the resident child's] medical care and treatment, inclusive of being exposed to cold elements inside the Home.' "

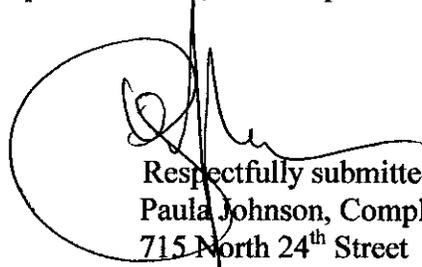
7. A public utility found to have violated an Illinois Commerce Commission regulation could, by statute, be subject to an award of punitive damages. Under this statute, the definition of a "public utility" describes Respondents et al, (735 ILCS 5/2-1115.05) for Negligent Infliction of Emotional Distress.
8. Under Illinois Law claims for negligent infliction of emotional distress do not require physical symptoms or expert proof. This holding appears to reverse prior holdings in *Corgan v. Muehling*, 143 Ill. 2d 296 (1991) and *Hiscott v. Peters*, 324 Ill. App. 3d 114 (2001), which had seemed to impose the requirement of medical expert testimony in exchange for having abandoned the "physical injury" requirement.
9. "Under Illinois law," Kennelly recounted, "a direct victim of negligence may recover damages for emotional distress. *Corgan v. Muehling*, 143 Ill.2d 296, 308, 574 N.E.2d 602, 607 (1991). Similarly, a victim of a breach of fiduciary duty may recover for emotional distress if the fiduciary had 'reason to know that a breach of [the] fiduciary duty [was] likely to cause emotional distress, for reasons other than pecuniary loss.' *Doe v. Roe*, 289 Ill.App.3d 116, 130, 681 N.E.2d 640, 650 (1997)."
10. Complainant is entitled to sue for emotional distress because "She is a direct victims

of defendant's fraud and negligence“.

WHEREFORE, a public utility found to have violated an Illinois Commerce Commission regulation could, by statute, be subject to an award of punitive damages. (735 ILCS 5/2-1115.05) Sec. 2-1115.05. (a) In all cases on account of bodily injury, or physical damage to property based on negligence, or product liability based on any theory or doctrine, other than those cases described in Section 2-1115, punitive damages may be awarded if actual damages are awarded. Respondent's conduct was with evil motive and with a reckless and outrageous indifference to a highly unreasonable risk of harm and with a conscious indifference to the rights and safety of her and persons occupying her residence. Complainant's Economic and non-economic loss are all damages which are tangible, such as damages for past and future medical expenses, loss of income or earnings and other property loss. Complainant's non-economic loss are intangible, including but not limited to damages for pain and suffering, disability, disfigurement, loss of consortium, and loss of society. Complainant's or "actual damages" are the sum of economic and non-economic damages of \$17,892.00.

Chapter 111 2/3, Section 77, Ill.Rev.Stat. (1959) provides: 'In case any public utility shall do, cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or thing required to be done either by any provisions of this Act or any rule, regulation, order or decision of the Commission, issued under authority of this Act, such public utility shall be liable to the persons or corporations affected thereby for all loss, damages or injury caused thereby or resulting therefrom, and if the court shall find that the act or omission was wilful, the court may in addition to the actual damages, award damages for the sake of example and

by the way of punishment. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any person or corporation. Complainant asks this Court to enter a ruling against Respondents et al, in these proceedings.



Respectfully submitted,
Paula Johnson, Complainant
715 North 24th Street
East St. Louis, Illinois 62205
618-874-2836

CERTIFICATE OF SERVICE

Respondents Attorney of Record, Matt Tonk, did not provide Complainant with "Substitution of Attorney Notices". Respondents last pleadings are from an Illinois Law Firm, that did not provide Complainant with "Entry of Appearance Notices", therefore, Complainant will serve Respondents Attorney of Record Matt Tonk, on Tuesday, November 17, 2009, to the following address;

To: Respondents Ameren IP, Illinois Power Company, through its attorney of record, Matt Tonk, 1901 Chouteau Avenue, Mailstop 1310, St. Louis, Missouri, 63166.

