

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Pastor James Franklin	)	
Complainant	)	
	)	Docket No. 10-0292
-vs-	)	
	)	
Illinois Power Company, d/b/a AmerenIP	)	
Respondent.	)	
	)	
Complaint as to billing/charges in	)	
Centerville, Illinois	)	

**MOTION TO DISMISS  
FOR FAILURE TO PROSECUTE COMPLAINT**

**COMES NOW**, Ameren Illinois Company d/b/a Ameren Illinois (“Ameren Illinois” or “Company”), pursuant to 83 ILAC 200.190, hereby moves the Illinois Commerce Commission (“Commission”) to dismiss the above captioned Complaint, and in support thereof states as follows:

1. Effective October 1, 2010, Illinois Power Company d/b/a AmerenIP, Central Illinois Light Company d/b/a AmerenCILCO and Central Illinois Public Service Company d/b/a AmerenCIPS (collectively “Ameren Illinois Utilities” or “AIUs”) merged. AmerenCIPS was the surviving entity and was renamed Ameren Illinois Company d/b/a Ameren Illinois. Ameren Illinois is the legal entity succeeding the respondent in this cause

2. On April 15, 2010, Pastor James Franklin (“Complainant”) on behalf of New Jerusalem Pentecostal Ministries filed a formal Complaint against Ameren Illinois alleging improper billing for gas and electric service

3. On June 24, 2010, a status hearing was held and procedural schedule was set. The Complainant indicated that the Complaint was on behalf of the New Jerusalem Pentecostal

Ministries. The Complainant was granted leave to amend his complaint as needed to include the name of the correct entity. (Tr. p. 10-11, 6/24/2010).

4. On July 9, 2010, a status hearing was held and the Complainant was instructed to use the e-docket system to make filings that will be considered by the Administrative Law Judge (“ALJ”). (Tr. p. 19, 7/9/2010).

5. On July 29, 2010, the Complainant filed direct testimony.

6. On August 20, 2010, the Company filed its direct testimony.

7. To date, the Complainant has not filed Rebuttal testimony on e-docket and has not filed an amended petition. Therefore, the Company’s Direct Testimony remains unrebutted.

The Complainant bears the burden of coming forward with the evidence necessary to permit the Commission to grant the relief requested. *See Eggmann v. Nutter*, 155 Ill.App. 390, 1910 WL 1996, 2 (1910). By failing to file Rebuttal Testimony on e-docket, the Complainant cannot meet his burden by entering evidence into the record at hearing. Further, even if the Complainant is somehow able to prove his cause, the proper party has not been identified in the filed Complaint.

8. In the interest of candor, the Company has received documents by mail that it believes were intended to be the Complainant’s Rebuttal Testimony. However, these documents are not found on e-docket. It is the responsibility of the Complainant, not the Company, to make the necessary filings in support of his Complaint. To the extent the ALJ requires, the Company can make a filing of these documents on e-docket with the understanding that the Company makes no representations about the legitimacy or veracity of the statements contained therein.

9. To the extent the ALJ deems it permissible to grant the Complainant additional time to make all necessary filings, the Company requests, *in the alternative*, that the evidentiary hearing set for October 19, 2010 be rescheduled or converted to a status hearing. Further, in the

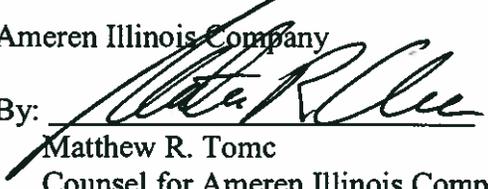
event of a rescheduling, the Company requests that it be permitted to file Rebuttal testimony provided the Complainant be allowed the opportunity to file Surrebuttal Testimony.

**WHEREFORE**, Ameren Illinois Company respectfully requests the Illinois Commerce Commission dismiss the Complaint filed in the above captioned matter, and grant any other relief the Commission deems just and reasonable.

Dated: October 14, 2010

Respectfully submitted,

Ameren Illinois Company

By: 

Matthew R. Tomc

Counsel for Ameren Illinois Company

Ameren Services Company

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St. Louis, MO 63166-6149

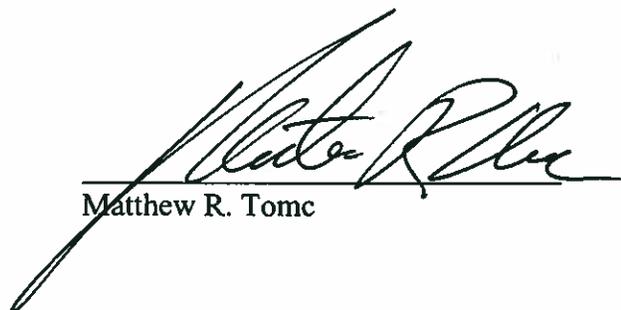
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**CERTIFICATE OF SERVICE**

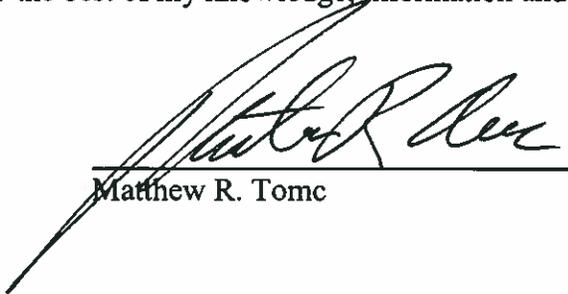
I, Matthew R. Tomc counsel for Ameren Illinois Company, hereby certify that a copy of the foregoing *Motion to Dismiss* was filed electronically on the Illinois Commerce Commission's e-Docket and was served and to all parties of record in this docket on this 14<sup>th</sup> day of October, 2010.



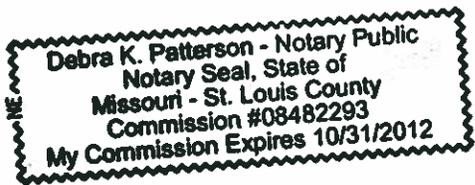
Matthew R. Tomc

**VERIFICATION**

I, Matthew R. Tomc, certify that: (i) I am an attorney for the Ameren Illinois Company;  
(ii) I have read the foregoing *Motion to Dismiss*; (iii) I am familiar with the facts stated therein;  
and (iv) the facts stated are true and correct to the best of my knowledge, information and belief.

  
Matthew R. Tomc

SUBSCRIBED and SWORN to before me this 14<sup>th</sup> day of October, 2010.



  
Notary Public