

WILLIAM H. MAY

Attorney at Law

1910 E. Burntwood St.
Springfield, MO 65803
Phone (417) 833-4500
Fax (417) 833-4554

May 22, 2003

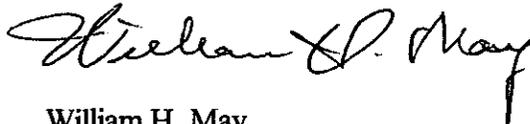
Dale Hardy Robert
Missouri Public Service Commission
200 Madison
Jefferson City, MO 65101

RE: Complaint

Dear Mr. Robert:

Please file the enclosed complaint with the Missouri Public Service Commission. Thank you for your assistance in this matter.

Sincerely,



William H. May
Attorney at Law

Encl.

FILED⁴

MAY 28 2003

**Missouri Public
Service Commission**

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED⁴

MAY 28 2003

Missouri Public
Service Commission

In the Matter of)
Springfield City Utilities Surcharges) Case No. _____
on Nonresidents of Springfield, MO)

**PETITION FOR INVESTIGATION AS TO THE LEGALITY
OF UTILITY SURCHARGES ON NONRESIDENTS
AND MOTION FOR EXPEDITED TREATMENT**

COMES NOW Petitioners and hereby requests that the Public Service Commission of the State of Missouri take action to prohibit Springfield City Utilities from discriminating against nonresidents of Springfield, Missouri with respect to utility rates for gas, electricity and water pursuant to its authority under 386.250.(1) RSMo, 386.250.(3) RSMo and 386.250.(6) RSMo and 386.250.(7).

In support of its Petition and Motion, Petitioners state as follows:

1. In 1945, Springfield City Utilities, which is owned and operated by the City of Springfield, Missouri, was granted authority by the Missouri Public Service Commission to provide utilities outside the city limits following the city's acquisition of Springfield Gas and Electric Company.
2. Springfield City Utilities provides utilities to 17,600 residential and commercial customers located outside the city limits.
3. Springfield City Utilities is not subsidized by the city's tax payers, but to the contrary, the utility subsidizes the city's bus service, supports the Chamber of Commerce and generates a substantial profit to the city's coffers.
4. The City of Springfield has sued other utilities who tried to provide competing service in Greene County. (See Associated Electric Co-op, Inc. v. City of Springfield, 793 SW2nd 517.) (Mo App S.D. 1990) As a result, Springfield City Utilities

has a virtual monopoly for utilities in most of Greene County.

5. Petitioners are all residents of Greene County, Missouri, residing within the public service area designated by the Public Service Commission for Springfield City Utilities.

6. Springfield City Utilities currently provides natural gas, electrical and water service to each of Petitioners.

7. In 1960, the City of Springfield began imposing a city "surcharge" tax on all utilities provided to residents and businesses outside the city limits of Springfield, Missouri.

8. The current city surcharge on utilities provided to Petitioners is 10% on gas and water and 5% on electricity.

9. All of Petitioners reside outside the city limits and are currently subjected to these utility surcharges.

10. The 17,600 City Utilities customers located outside the city limits are not allowed to vote for city council members and are not represented on the City Council.

11. The Springfield City Council appoints the members of the City Utilities board who serve at Council's discretion.

12. The surcharges paid to the city by nonresident customers of City Utilities are in excess of two million (\$2,000,000) dollars a year.

13. The imposition of these surcharges on nonresident utility charges constitutes taxation without representation when the tax is imposed on an essential service that is a government-owned monopoly.

14. Petitioners were unaware they were paying a city utility tax because City Utilities billings do not indicate the existence of these surcharges or the amount.

15. Petitioners only became aware of these utility taxes as a result of a

proposal by a City Council member to increase the surcharge on electrical service to 15% in February of 2003.

16. In response, the City Utilities Board of Directors voted to appoint a committee to look at the surcharge issue.

17. In late March, 2003, Springfield City Council voted not to increase the electrical surcharge on nonresidents and not to appoint a committee to discuss the current surcharges on utilities.

18. The Missouri legislature has recognized and addressed the monopolistic nature of utility companies as well as the essential nature of utilities by establishing the Missouri Public Service Commission to regulate utility rates.

19. The Missouri statutes dealing with utilities makes clear the Missouri Public Service Commission has jurisdiction over utility rates except in those instances where utility rates are controlled by elected officials representing the interest of the utility customer.

20. The Missouri Public Service Commission has specific statutory authority to regulate city-owned water utilities under 386.250.(3) RSMo when said city-owned utility provides service outside its municipal boundaries.

21. The Missouri Public Service Commission has specific jurisdictional and supervisory authority regarding the manufacture, sale or distribution of gas or electricity under 386.250.(1) RSMo.

22. Chapter 386.250.(7) extends further authority and jurisdiction to the Public Service Commission by specifically providing "To such other and further extent, and to all such other and additional matters and things, and in such further respects as may herein appear either expressly, or impliedly" (emphasis added).

23. The Public Service Commission has specific and implied jurisdiction over a

city-owned utility who chooses to provide service outside the city limits.

24. Petitioners are hereby requesting that the Public Service Commission order an immediate investigation into Springfield City Utilities' billing practices and surcharges on the utilities of nonresidents of Springfield, Missouri and further that the Commission issue regulations or orders prohibiting city-owned utilities from discriminating against nonresidents with respect to rates.

25. Petitioners further ask that the Commission treat this petition in an expedited manner and issue a ruling within the next 60 (sixty) days.

26. In their attempt to resolve this issue and persuade city leaders to remove the existing surcharge and not to raise the existing fees, Petitioners, by and through their attorney, have:

A. Sent letters to both the Springfield City Council and utility Board of Directors and management.

B. Made phone calls to City Council members and utility board members and management.

C. Discussed the issue at length with Greene County Commissioners.

D. Contacted state senators and representatives representing Greene County.

E. Discussed this issue with City Utilities general manager and general counsel several times.

F. Testified in legislative hearings for legislation that would prohibit surcharges against nonresidents. (Due to lobbying by city officials and lobbyist, legislation to address this issue was not adopted.)

G. Wrote letters to the editor on this issue for publication in the Springfield newspaper.

27. Petitioners have filed this request as soon as possible after it became apparent that discussions with the City were not going to have effect and that the legislature would not address our grievance.

28. The imposition of these city surcharges have resulted in county residents being forced to subsidize the utility cost of city residents and requiring nonresidents to pay higher utility costs than is fair and reasonable.

29. Petitioners hereby request the Commission take immediate steps to investigate the surcharge fees being charged to nonresidents of Springfield and to protect City Utilities customers outside the municipal boundaries of Springfield, Missouri from discriminatory and unfair utilities surcharges on water, gas and electricity supplied by City Utilities. Specifically, Petitioners suggest the Commission issue a finding and order that addresses the following.

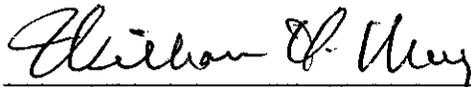
A. *A finding that the Public Service Commission of Missouri has jurisdiction with respect to utility rates when a city-owned utility chooses to provide said utilities outside its municipal boundaries.*

B. That municipally-owned utilities providing service outside its municipal boundaries may not impose special city taxes or surcharges on utilities provided to nonresidents of that city.

C. That all city surcharges paid by nonresidents to Springfield City Utilities be promptly refunded.

WHEREFORE, for the reasons set forth above, the Petitioners urge the Commission to grant the relief requested herein and such other relief as the Commission deems necessary and appropriate.

Respectfully Submitted,



William H. May MO # 28632
1910 E. Burntwood St.
Springfield, MO 65803
Telephone (417) 833-4500
Fax (417) 833-4554
e-mail address: moaahomofc@aol.com
Attorney for Petitioners

CERTIFICATE OF SERVICE

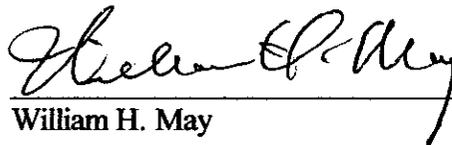
I hereby certify that copies of the foregoing have been mailed, postage prepaid, to all counsel of record as shown on the following service list this 22nd day of May, 2003.

Howard Wright
Springfield City Attorney
840 Boonville
Springfield, MO 65802

Andy Dalton
City Utilities Attorney
P.O. Box 551
Springfield, MO 65801

John Coffman
Acting Public Counsel
Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Dale Hardy Robert
Missouri Public Service Commission
200 Madison Street
Jefferson City, MO 65101



William H. May

PETITIONERS SIGNATURES

By my signature below, I certify that I am a current customer of Springfield City Utilities, live outside the city limits of Springfield, Missouri, am subjected to a surcharge on my gas, electric or water utilities, and sign this petition to the Commission as my free act and deed.

1. Doris Blaylock

Doris Blaylock
1909 E. Wheatridge
Springfield, MO 65803
(417) 833-4116
e-mail: None

2. Doris Butler

~~Eugene Butler~~ Delores Butler
3964 N. Dysart
Springfield, MO 65803
(417) 833-1000
e-mail: _____

3. Brad Chadwick

Brad Chadwick
3986 N. Dysart
Springfield, MO 65803
(417) 894-7930
e-mail: _____

4. Marsha Cole

Marsha Cole
3997 N. Stewart
Springfield, MO 65803
(417) 833-4518
e-mail: _____

5. Leona Chestnut

Leona Chestnut
1911 E. Wheatridge
Springfield, MO 65803
(417) 833-2482
e-mail: Steve Craig

6. Carl Cookson

Carl Cookson
3980 N. Stewart
Springfield, MO 65803
(417) 833-4534
e-mail: _____

7. Shirley Craig

Shirley Craig
1840 E. Wheatridge
Springfield, MO 65803
(417) 833-2590
e-mail: _____

8. Randy Crocker

Randy Crocker Cheryl Crocker
1950 Stoneridge
Springfield, MO 65803
(417) 833-4861
e-mail: _____

9. B-Etta Funk

~~Leslie Funk~~ B-Etta Funk
3957 N. Bannister
Springfield, MO 65803
(417) 833-1712
e-mail: _____

10. Dana Gray

Dana Gray
3815 Millridge
Springfield, MO 65803
(417) 833-3938
e-mail: dana.gray@cardinal.com

11. Edward Horton
Ed Horton
3980 N. Bannister
Springfield, MO 65803
(417) 833-3152
e-mail: mtnchi53@netzoo.net

12. J. E. Lawrence
J.E. Lawrence
3821 N. Stewart
Springfield, MO 65803
(417) 833-2709
e-mail: _____

13. Jacquelin Lawson
~~Jacquelin Lawson
3951 N. Stewart
Springfield, MO 65803
(417) 833-5817
e-mail: _____~~

14. Don Lurvey
Don Lurvey
1953 E. Wheatridge
Springfield, MO 65803
(417) 833-4213
e-mail: _____

15. Lawrence Mundt
Lawrence Mundt
3957 N. Stewart
Springfield, MO 65803
(417) 833-3181
e-mail: _____

16. Larry Roark
Larry Roark
1840 E. Burntwood
Springfield, MO 65803
(417) 833-8776
e-mail: _____

17. Bob Rosenquist
Bob Rosenquist
3961 N. Bannister
Springfield, MO 65803
(417) 833-4014
e-mail: BOBCAT810@juno.com

18. Ken Russell
Ken Russell
1839 ~~Woodbine~~ Woodbine
Springfield, MO 65803
(417) 833-4912
e-mail: _____

19. Robert Shearholdt
DORA M. Robert Shearholdt
3633 N. Stewart
Springfield, MO 65803
(417) 833-0712
e-mail: _____

20. BARBARA SMITH
Maurice E. Smith BARBARA SMITH
1910 E. Wheatridge
Springfield, MO 65803
(417) 833-2378
e-mail: _____

21. Brenda Sneed
~~Brenda Sneed
1996 E. Wheatridge
Springfield, MO 65803
(417) 833-0194 833-0192
e-mail: _____~~

22. Walter Stansbury
Walter Stansbury
3945 N. Stewart
Springfield, MO 65803
(417) 833-4506
e-mail: FWSTANSBURY@AOL.COM

23. Ralph Thaemlitz

Ralph Thaemlitz
3954 N. Bannister
Springfield, MO 65803
(417) 833-4299
e-mail: _____

24. Alex L. Frassi

Alex L. Frassi
1832 E. Wheatridge
Springfield, MO 65803
(417) 833-4636
e-mail: _____

25. Don Wood

Don Wood
3761 N. Nias
Springfield, MO 65803
(417) 833-2449
e-mail: _____

26. William H. May

William H. May
1910 E. Burntwood
Springfield, MO 65803
(417) 833-1992
e-mail: MOAA.HOMOC@AOL.COM

27. Fred Gore

Fred Gore
3765 N. Valley Place
Springfield, MO 65803
(417) 833-3044
e-mail: fgore@getatlus.com

28. Jim Blackburn

Jim Blackburn
3759 N. Valley Place
Springfield, MO 65803
(417) 833-4001
e-mail: _____

29. Josif Negrau

Josif Negrau
3731 N. Wilden
Springfield, MO 65803
(417) 833-9307
e-mail: _____

30. Jim E. Liffick

Jim Liffick
3964 N. Bannister
Springfield, MO 65803
(417) 833-0425
e-mail: LIF@MBEMAIL.COM

31. Cheri Huxley

Cheri L. Huxley
1929 E. Wheatridge
Springfield, MO 65803
417-833-3021
CheriHuxley@AOL.com

32. Roseanna Baker

ROSEANNA BAKER
1938 E. STONRIDGE
Springfield, MO 65803
(417) 833-1724

33. Kenneth Quigley

KENNETH Quigley
3960 N. STEWART
Springfield, MO 65803
(417) 833-4911

34. Pat Bleie
Cynthia Bleie
3980 Dysart
Springfield Mo 65803
417 8331269

35. Jerry L. Barton

1831 E. Wheatridge
Springfield, MO 65803
417-833-7785

36. Lisa Hosp

LISA HOSP
1854 E. WHEATRIDGE
833-1157 SPRINGFIELD, MO 65803