

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE COMPLAINT FILED)	ORDER DENYING MOTION
BY DOUGLAS L. KUPER, LENNOX, SOUTH)	TO DISMISS
DAKOTA, AGAINST LINCOLN-UNION)	
ELECTRIC COMPANY REGARDING STRAY)	EL98-005
VOLTAGE)	

On March 6, 1998, Douglas L. Kuper (Kuper), Lennox, South Dakota, filed a complaint against Lincoln-Union Electric Company (Lincoln-Union), Alcester, South Dakota, regarding stray voltage. In an Order dated April 28, 1998, the Public Utilities Commission (Commission) made a finding of probable cause of an unlawful or unreasonable act, rate, practice or omission by Lincoln-Union. Lincoln-Union filed an Answer dated May 18, 1998. Lincoln-Union by motion dated July 16, 1998, moved to dismiss the complaint of Kuper. A hearing on the motion to dismiss was held by the Commission on July 23, 1998, via teleconference.

The Commission, has jurisdiction in this matter pursuant to SDCL 49-34A-58 and ARSD 20:10:01:08.01 et seq.

On August 4, 1998, at a duly notice meeting, the Commission, having heard the arguments of counsel for Lincoln-Union and Douglas L. Kuper who represented himself, and being fully advised in these premises, finds that this matter is not barred by res judicata as the Commission may only consider adequacy of service; the allegation of stray voltage is that it is of a continuing nature; and it does not appear that the issues of Kuper's personal inconvenience such as shocks in the shower or bath were previously addressed by the Court (Chairman Burg dissenting). The other grounds raised by Lincoln-Union are without merit. It is hereby

ORDERED that the motion of Lincoln-Union to dismiss this complaint be denied.

Dated at Pierre, South Dakota, this 14th day of August, 1998.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.
By: <u><i>Allaine Kalbo</i></u>
Date: <u>8/14/98</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

JAMES A. BURG, Chairman, dissenting

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner