

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**JAMES DUDLEY and JENNIFER ERSERY**

**APPELLANTS,**

**v.**

**SOUTHERN UNION COMPANY**

**RESPONDENT.**

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**DOCKET NUMBER WD71981  
MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

DATE: November 16, 2010

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Appeal From:

JACKSON COUNTY CIRCUIT COURT  
THE HONORABLE JOEL F. MAY, JUDGE

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Appellate Judges:

Division One: James M. Smart, Jr., P.J., Mark Pfeiffer and Cynthia L. Martin, JJ.

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Attorneys:

James Dudley, Appellant Pro Se and Jennifer Ersery, Appellant Pro Se, **for appellants.**  
Martin M. Montemore, Kansas City, MO, **for respondent.**

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**JAMES DUDLEY and JENNIFER ERSERY,**

**APPELLANTS,**

**v.**

**SOUTHERN UNION COMPANY,**

**RESPONDENT.**

No. WD71981

Jackson County

Before Division One Judges: James M. Smart, Jr., P.J., Mark Pfeiffer and Cynthia L. Martin, JJ.

James Dudley brought two Public Service Commission complaints against Missouri Gas Energy (MGE), alleging wrongful termination of service and wrongful transfer of a tenant's bill to a residential account. The Public Service Commission determined that MGE did not violate tariffs or rules in discontinuing service. It further determined that MGE was not authorized to transfer the tenant's bill to the residential account. Dudley and Jennifer Ersery filed a lawsuit against MGE alleging damages related to the termination of service. The trial court dismissed the petition with prejudice. On appeal, this court remanded to let Dudley proceed as to the wrongful transfer. *Dudley v. Southern Union Co.*, 261 S.W.3d 598 (Mo. App. 2008). On remand, MGE moved for summary judgment. The trial court granted summary judgment in favor of MGE. Dudley appeals to this court.

**DISMISSED.**

**Division One holds:** Summary judgment in favor of MGE was entered on October 29, 2009. A post-judgment motion to amend or alter the judgment was filed on November 9, 2009. The court denied that motion on December 15, 2009. Thus, the judgment became final on December 15, 2009. The appeal in the current case was filed on January 15, 2010, well beyond the ten-day window. The appeal was not timely filed, and no motion to file an appeal out of time was timely filed. We lack authority to proceed. The appeal is dismissed.

*Per Curiam*

November 16, 2010

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