

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Union Electric)	
Company's (d/b/a Ameren Missouri) Gas)	
Service Tariffs Removing Certain)	
Provisions for Rebates from Its Missouri)	Case No. GT-2011-0410
Energy Efficient Natural Gas Equipment)	
and Building Shell Measure Rebate)	
Program.)	

**PUBLIC COUNSEL'S RESPONSE TO MOTION
TO STRIKE AND MOTION TO LATE FILE RESPONSE**

COMES NOW the Missouri Office of the Public Counsel (OPC) and for its Response to Union Electric Company's (d/b/a Ameren Missouri)("UE") Motion to Strike and Motion to Late File Response states:

1. At 4:36 p.m. on Friday, September 30, 2011, UE filed a Motion to Strike a portion of the Rebuttal Testimony of OPC witness Mr. Ryan Kind that OPC filed with the Commission on September 8, 2011.

2. UE argues in its motion that a portion of Mr. Kind's Rebuttal should be stricken because it references Case No. GT-2011-0130. It is understandable why UE wants references to Case No. GT-2011-0130 to be stricken. Case No. GT-2011-0130 provides the Commission with additional evidence indicating UE's pattern of behavior aimed at minimizing the adverse affects that electric and gas energy efficiency programs may have on its near-term earnings and cash flow. Instead of using the Commission-approved regulatory asset account to maintain the gas energy efficiency programs, UE chose to simply cease accepting rebate applications. Case No. GT-2011-0130 shows that UE is more concerned with short term financial impacts than increasing its expenditures

on energy efficiency measures or helping their customers become more energy efficient. Instead, UE is driven by an effort to decrease energy efficiency expenditures to improve UE's cash flow, despite UE's commitment in the Stipulation and Agreement approved by the Commission in Case No. GR-2010-0363 to increase expenditures. Cutting the rebate program in half, which UE is proposing with its tariff filing, is just one of the latest chapters in UE's efforts to stop or decrease its energy efficiency programs. Mr. Kind also notes in the portion of the testimony that UE is not seeking to strike that UE is eliminating its electric energy efficiency programs for some indefinite period of time.

3. Case No. GT-2011-0130, and consolidated Case No. GO-2011-0131, are also very relevant to interpreting the Stipulation and Agreement that resulted from those cases, which the Commission is being asked to interpret in this case. To protect UE's consumers from a repeat of the recent interruption in gas energy efficiency programs, the Stipulation and Agreement provides that the programs will not be interrupted through December 2012. This provision is a direct result of UE's decision to cease program funding in October 2010, and was added to ensure the uninterrupted availability of UE's rebate programs.

4. UE's Motion to Strike states "for the reasons set forth in paragraph 4 above, this portion of Mr. Kind's pre-filed rebuttal testimony should be struck by the Commission." Paragraph 4 of UE's Motion to Strike states that "the terms of the Stipulation speak for themselves" and that "no party in this case has argued that the language of the Stipulation is unclear." While UE's assertion that that "no party in this case has argued that the language of the Stipulation is unclear" is accurate, this misses the point. The main reason that this case continues to move forward is the dispute between

UE and the rest of the parties over differences about the meaning of the Stipulation language and how it should be applied to the proposed tariff changes that are the subject of this case.

5. Counsel for OPC was out of town from Friday, September 30, 2011 to Monday, October 3, 2011, and was unavailable to respond to UE's motion by October 3, 2011 as directed by the Commission. For this reason, OPC asks the Commission to accept this late filed response for good cause.

WHEREFORE, the Office of the Public Counsel respectfully files this response and asks the Commission to reject UE's motion.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 4th day of October 2011.

/s/ Marc Poston