



Martha S. Hogerty  
Public Counsel

State of Missouri

Mel Carnahan  
Governor

Office of the Public Counsel  
Harry S Truman Building - Ste. 250  
P.O. Box 7800  
Jefferson City, Missouri 65102

Telephone: 573-751-4857  
Facsimile: 573-751-5562  
Relay Missouri  
1-800-735-2966 TDD  
1-800-735-2466 Voice

February 6, 1997

Mr. Cecil I. Wright  
Executive Secretary  
Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**FILED**  
**FEB 6 - 1997**  
**MISSOURI**  
**PUBLIC SERVICE COMMISSION**

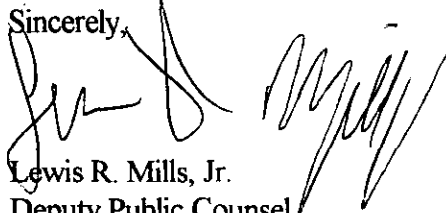
**RE: Union Electric Company**  
**Case No. EM-96-149**

Dear Mr. Wright:

Enclosed for filing in the above-referenced case please find the original and fourteen copies of Public Counsel's **Motion to Cancel or Reschedule Hearing**. I have on this date mailed or hand-delivered copies to all counsel of record. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Sincerely,

  
Lewis R. Mills, Jr.  
Deputy Public Counsel

LRM/bjr

Enclosures

cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED  
FEB 6 - 1997  
PUBLIC SERVICE COMMISSION  
MISSOURI

In the matter of the application of Union )  
Electric Company for an order authorizing: )  
(1) certain merger transactions involving )  
Union Electric Company; (2) the transfer of )  
certain assets, real estate, leased property, )  
easements and contractual agreements to )  
Central Illinois Public Service Company; and )  
(3) in connection therewith, certain other )  
related transactions. )

Case No. EM-96-149

**MOTION TO CANCEL OR RESCHEDULE HEARING**

COMES NOW the Office of the Public Counsel (Public Counsel), and for its Motion to Cancel or Reschedule Hearing, states as follows:

1. On January 31, 1997, the Public Service Commission (Commission) issued its Order Setting Hearing. It set a hearing for February 11, 1997 for the purpose of allowing Public Counsel and Staff of the Commission (Staff) to offer into evidence the market power testimony of its consultants, to permit questions of these two witnesses from the Commission, and to offer the opportunity for cross-examination.

2. Public Counsel is willing to allow the testimony to be admitted into the record without objection and to formally waive cross-examination on these witnesses (assuming no other party demands to cross-examine them), as it did for all the other witnesses in this case. (See paragraph 17 of the Stipulation and Agreement filed in this case on July 12, 1996). Public Counsel believes that the Staff and Union Electric Company (UE) are also willing to waive cross-examination of these witnesses.

No other party appears likely to demand cross-examination. Public Counsel and UE have attempted

to contact all parties to determine if this is the case. However, since the hearing in this case is currently scheduled for February 11th, Public Counsel is filing this motion without obtaining such commitments from all parties. In order to allow all parties due process, Public Counsel respectfully suggests that the Commission issue a notice allowing all parties ten days to raise objections to the admission of the market power testimony, and to request cross-examination of the witnesses sponsoring this testimony. If, as Public Counsel suspects, no party raises an objection, and no party demands cross-examination, then the only reason to convene a hearing in this case at this point would be to allow the Commission to ask questions of these witnesses.

3. Since it appears that these witnesses will not all be available until April, Public Counsel suggests that the Commission would get a quicker response to any questions if it submitted them to the witnesses in writing, and allowed the witnesses a relatively short period of time to respond in writing. Such a procedure would have the added advantage of saving the parties the expense of bringing these witnesses to Jefferson City for a hearing. The procedure could allow for the Commission to submit follow-up questions to the witnesses based on responses to the initial questions. It could also allow for parties to respond to the written answers submitted by the witnesses.

4. In the event that the Commission does determine that it is appropriate to reschedule the market power hearing in this case, Public Counsel's witness Rosen currently has no definite commitments for the week of March 3rd, for the week of March 24th (except for a commitment on March 25th), and for the month of April. (Note that Public Counsel believes the Staff witness to be unavailable in March, and UE personnel to be unavailable in February). If the Commission decides to

schedule a hearing in this case, Public Counsel respectfully requests that it be given at least two weeks' advance notice in order to obtain relatively cheaper plane tickets.

WHEREFORE, Public Counsel respectfully requests that the Commission cancel or reschedule the hearing set for February 11, 1997.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By 

Lewis R. Mills, Jr. (#35275)

Deputy Public Counsel

P. O. Box 7800

Jefferson City, MO 65102

(573) 751-4857

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following on this 6th day of February, 1997:

Steve Dottheim  
Deputy General Counsel  
Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

James J. Cook  
Joseph H. Raybuck  
Union Electric Company  
P. O. Box 149 (M/C 1310)  
St. Louis, MO 63166

Richard W. French  
French & Stewart  
1001 Cherry St., Suite 302  
Columbia, MO 65201

James C. Swearengen  
Brydon, Swearengen & England  
P. O. Box 456  
Jefferson City, MO 65102

Gary W. Duffy  
Brydon, Swearengen & England  
P. O. Box 456  
Jefferson City, MO 65102

Michael C. Pendergast  
Laclede Gas Company  
720 Olive St., Room 1520  
St. Louis, MO 63101

Robert C. Johnson  
Diana M. Schmidt  
Peper, Martin, Jensen, et al.  
720 Olive St., 24th Floor  
St. Louis, MO 63101-2396

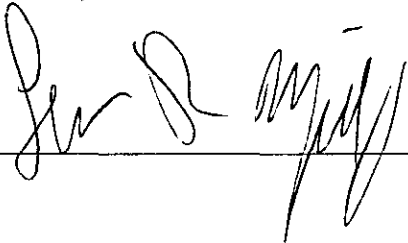
Susan B. Cunningham  
Staff Attorney  
Kansas City Power & Light Co.  
P. O. Box 418679  
Kansas City, MO 64141-9679

Jeremiah W. Nixon  
Daryl R. Hylton  
Office of the Attorney General  
P. O. Box 899  
Jefferson City, MO 65102

Paul S. DeFord  
Lathrop & Norquist  
2345 Grand Blvd., Suite 2500  
Kansas City, MO 64108

Daniel R. Devereaux  
Attorney at Law  
1215 Pine Street  
St. Louis, MO 63101

Marilyn S. Teitelbaum  
Schuchat, Cook & Werner  
1221 Locust St., 2nd Floor  
St. Louis, MO 63101



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