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September 19, 2002

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**FILED<sup>3</sup>**

**SEP 19 2002**

RE: Case No.: EO-2002-351  
Ameren UE Callaway-Franks Line

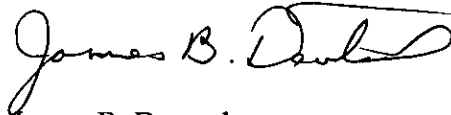
**Missouri Public  
Service Commission**

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case are an original and the appropriate number of copies of a Motion for Rehearing and Statement of Position of Intervenors Concerned Citizens of Family Farms and Heritage.

Copies of this filing have on this date been mailed to counsel of record. Thank you for your attention to this matter.

Sincerely,



James B. Deutsch

JBD:krw

Enclosures

cc: Office of the Public Counsel  
Joseph H. Raybuck  
James Lowery  
General Counsel, Missouri Public Service Commission

(KW6177.WPD;1)

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

**FILED<sup>3</sup>**  
SEP 19 2002

Missouri Public  
Service Commission

Application of Union Electric Company     )  
for Permission and Authority to Construct,   )  
Operate, Own and Maintain a 345 kilovolt    )  
Transmission Line in Maries, Osage and      )  
Pulaski Counties, Missouri                    )  
("Callaway-Franks Line")                    )

Case No. EO-2002-351

**MOTION FOR REHEARING**

**COMES NOW** Concerned Citizens of Family Farms and Heritage, Douglas McDaniel, Chairperson and Mary Claire Kramer, Intervenors, by and through counsel and for their Motion for Rehearing, pursuant to Section 386.500, RSMo and 4 CSR 240-2.160 states as follows:

1. On August 8, 2002, Intervenors filed their Motion to Dismiss Application in this matter.
2. On August 16, 2002, Union Electric Company, d/b/a Ameren UE (Ameren UE) filed its Suggestions in Opposition to Intervenors Motion to Dismiss.
3. On September 10, 2002, the Commission entered its Order Denying Motion to Dismiss Application.
4. This Motion for Rehearing is filed within ten (10) days of the issuance of the Commission's Order, pursuant to 4 CSR 240-2.160(2).
5. The Commission should grant rehearing of Intervenors Motion to Dismiss for the following reasons:
  - A. The Commission's Order Denying Motion to Dismiss Application is arbitrary and capricious and is not based upon substantial facts and evidence in that Ameren UE's Application fails to contain a mandatory component: The plans and specifications mandated by 4 CSR 240-

2.060(4)(B)(2).

B. The Commission's Order Denying Motion to Dismiss Application is arbitrary and capricious in that it gives preferential treatment to Ameren UE in that all other utilities are required to file plans or specifications under 4 CSR 260-2.060(4)(B)(2).

C. The Commission's Order Denying Motion to Dismiss Application is incorrect as a matter of law in that 4 CSR 260-2.060(4)(B), as required by Section 386.410.1, RSMo, is mandatory, and therefore jurisdictional, and contains no exception for "substantial compliance."

D. The Commission's Order Denying Motion to Dismiss Application is invalid, in that Ameren UE failed to seek waiver of the requirements of 4 CSR 260-2.060(4)(B) and, although the effect is to grant such unrequested waiver, this Commission has not entered an order in this matter waiving any mandatory provision of 4 CSR 260-2.060.

E. The Commission's Order Denying Motion to Dismiss Application is not supported by, and is contrary to, the facts, in that Intervenor's are prejudiced and cannot prepare a defense against the Application since, in the absence of the plans and specifications including the exact line route, Intervenor's have no ability to gauge how significantly properties are adversely affected; Intervenor's are denied opportunity to contest the necessity for construction on such a specific route; and Intervenor's cannot accurately determine the validity of Ameren UE's Application and are unable to retain proper experts to evaluate the details of the plans and specifications for the power line proposed in the Application.

F. The Commission's Order Denying Motion to Dismiss Application is erroneous as a matter of law in that, pursuant to Section 386.410.1, RSMo, the mandatory requirements of 4 CSR 260-2.060 are jurisdictional, and the failure of Ameren UE to properly

comply with 4 CSR 260-2.060 constitutes a failure to state a cause of action in the Application over which this Commission has jurisdiction by law, and thus deprives this Commission of jurisdiction to rule on Ameren UE's Application.

**WHEREFORE**, Intervenors, for the reasons stated above, pray that this Commission sustain their Motion for Rehearing, vacate its Order Denying Motion to Dismiss Application and enter an Order Dismissing Ameren UE's Application, or in the alternative grant further hearing and argument to Intervenors on their Motion to Dismiss.

Respectfully submitted,

BLITZ, BARDGETT & DEUTSCH, L.C.

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**CERTIFICATE OF SERVICE**

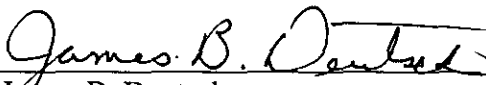
I hereby certify that true and correct copies of the above and foregoing document were sent U.S. Mail, postage prepaid, to the following parties of record on this 19<sup>th</sup> day of September, 2002:

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