BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company, d/b/a) AmerenUE's Tariffs to Increase Its Annual) Revenues for Electric Service)	**File No. ER-2010-0036** Tariff No. YE-2010-0054

INITIAL BRIEF OF THE MUNICIPAL GROUP

I. Introduction.

The Municipal Group consists of the City of University City, the City of O'Fallon, the City of Rock Hill, the City of St. Ann, and through the St. Louis County Municipal League of Cities, approximately ninety-five Cities in St. Louis County, including Ballwin, Richmond Heights, Maplewood, Olivette, Creve Coeur, Maryland Heights, Florissant, Webster Groves, Kirkwood, Ferguson, St. John, Fenton and Hazelwood. In 2010, the City of University City discovered evidence that it was likely overpaying for their streetlighting under Ameren's 5M rate (Exhibit 750, Eastman, p. 4). Examination of the pricing of 5M streetlighting, in comparison to the 6M streetlighting rates prompted University City to question its streetlighting rates (Exhibit 750, Eastman, p. 4). Ms. Eastman discovered in comparison to the 6M rate (non-metered streetlighting), the 5M municipal customers were paying nearly double the cost of service provided to 6M customers who have identical lights (Exhibit 750, Eastman, p. 9). 5M customers are also continuing to pay pole installation charges for poles that were installed prior to 1988 (Exhibit 750, Eastman, p. 12). Facing a potential rate increase of 18%, the Municipal Group decided to intervene in this instant rate case to seek relief from the 5M tariff. This is the first time that any Municipality or group of municipalities has ever intervened in an AmerenUE rate case to question streetlighting rates. Ameren streetlighting customers pay over $31 million annually (Tr. P. 2869 and Exhibit WLCE 3 of Exhibit 134).

In prehearing settlement discussions, the parties entered into a Unanimous Stipulation which was filed on March 10, 2010 and approved by the Commission in its Order Approving First Stipulation and Agreement dated March 24, 2010. That approved Stipulation stated in pertinent part:

"13. With regard to municipal lighting, AmerenUE agrees:

a. to immediately commence a cost of service study for all rates under service classifications 5M and 6M, and upon completion of that study to share the results, all work papers and underlying data with financial and accounting consultants for the Municipal Group, Public Counsel, the Staff and other interested signatories. Prior to commencing the study, AmerenUE will meet with the Municipal Group's financial and accounting consultants and those at the Public Counsel's office and with the Staff, and those representing other interested signatories in a collaborative fashion in an attempt to agree on the parameters and general guidelines for the study.

b. to develop a methodology for determining the value of systems within municipal boundaries and negotiate in good faith with any 5M municipal streetlighting customer who wishes to purchase or take ownership of any streetlight systems within its jurisdictional boundaries, subject to final approval by the Commission.

c. to develop a database to insure that streetlighting customers are informed of the location of poles within their boundaries, by type, etc. and that streetlighting customers will only be charged for those facilities."

However, because Municipal Group still believes that the 5M rates are fundamentally unsupported by any cost of service study, the Municipal Group seeks in this rate case:

1) a moratorium on any new streetlighting rates under the 5M rates and 6M tariffs pending the outcome of the cost of service study and its introduction in AmerenUE's next rate case, or, in the alternative that AmerenUE hold in escrow any increase ordered for the 5M and 6M

streetlighting rates pending the review of the streetlighting cost of service study in Ameren's next rate case; and

2) the elimination of any future pole installation charges from 5M customer bills until such pole installation charges can be justified in AmerenUE's next rate case; and

3) a credit for the 5M customers for all other revenues received by Ameren from itself and other entities for their use of these same poles for telephone, cable TV, electric distribution lines, etc.

II. Background.

In the spring of 2009 the City of University City became aware that it would eligible for direct federal stimulus financing under the Energy Efficiency and Conservation Block Grant (EECBG). The purpose was two-fold: reduce energy usage and create and/or retain jobs through savings to be accomplished through energy efficiency. City staff researched the billing records for streetlighting and discovered that under the 5M tariff, the City was paying approximately $640,000. This represented the majority of the City's overall electricity budget of $850,000 for FY10 (Exhibit 750, Eastman pp. 3-5). Internal discussions with City staff revealed, although without formal data, that the energy usage for streetlightings was but a small percentage of the overall rate. Nevertheless, City Staff inquired with AmerenUE whether or not they would be retrofitting AmerenUE owned streetlighting with more energy efficient bulbs. The City was told AmerenUE would not (Exhibit 750, Eastman p. 5). This confirmed the City's initial analysis that retrofitting would not be cost effective due to the low cost of energy.

Under the 5M tariff, cities are billed in bulk: for each light type there is a rate which is then multiplied by the number of lights in that category. The lights are not metered for exact energy use (Exhibit 750, Exhibit PAE-1). Thus, in order to fulfill the obligations under the EECBG the only method to reduce energy usage and reduce costs is to eliminate or decommission lights---through removal from service[1] (Exhibit 750, Eastman pp. 4-5). The same would be true of any city seeking to reduce energy usage and costs. Cities cannot turn off lights or switch to a cheaper source. At present, the only method of reducing energy use and cost is to eliminate lights.

At the same time University City was making its inquiries with AmerenUE, the cities of O'Fallon and Ballwin were also in the midst of their analyses about streetlighting. Both of these cities, who also have significant streetlighting bills, were similarly seeking all avenues for reducing their energy usage and costs. It should be noted that other cities, including University City, have unsuccessfully sought mapping information on the location of all 5M streetlights by light and pole type to confirm their billing records. At great cost, the City of University City is conducting its own streetlighting audit because of AmerenUE's heretofore refusal to provide such information (Exhibit 750, pp. 5-6).

In a telephone conversation with AmerenUE, City Staff inquired as to the exact portion of the 5M rate was attributable to energy usage. AmerenUE informed Staff that it could determine the energy component of the streetlighting rates under the 5M tariff by comparing the 5M rate to the "energy only" portion the 6M tariff for the same category of fixture types. The streetlighting under 5M and 6M is identical. The only difference is ownership. The 6M classification covers metered (not at issue) and unmetered streetlighting that is owned by the customer, rather than AmerenUE. AmerenUE owns all the 5M streetlighting.[2] The streetlight fixture and pole types are identical to the 5M streetlights. A 6M customer is either billed for "energy only" or "energy and maintenance". The 5M and 6M rates are

[1] The City of University City, faced with a dire financial outlook, will be decommissioning 20% or 600 of its 5M street lights under the EECBG program. The City is not in the position of being able to purchase the lighting from AmerenUE in order to obtain the significantly lower rate under the 6M tariff.

[2] The question remains as to whether AmerenUE ever purchased some or all of the street lighting billed under 5M or whether street lighting was purchased and installed by some other entity (a subdivision or the municipality itself) and simply dedicated over to AmerenUE for its care and maintenance.

dramatically different and formed the basis of the Municipal Group's intervention in the case (Exhibit 750 pp. 7-11).

III. The streetlighting rates under the 5M tariff are unsupported by any cost of service study.

AmerenUE's witness, Wilborn L. Cooper, testified that AmerenUE did not conduct a cost of service study for streetlighting rates in the current case nor had it conducted any such studies in either of the two previous Ameren rate cases. (Tr. pp. 2871-2872) Mr. Cooper stated that he thought the last streetlighting cost of service study was done by AmerenUE in the 1980's; however, AmerenUE was unable to produce a copy of this study when requested to do so by the Municipal Group (Tr. P. 2872). AmerenUE admitted that municipal streetlighting is a unique class of customer (Tr. pp. 2865-6).

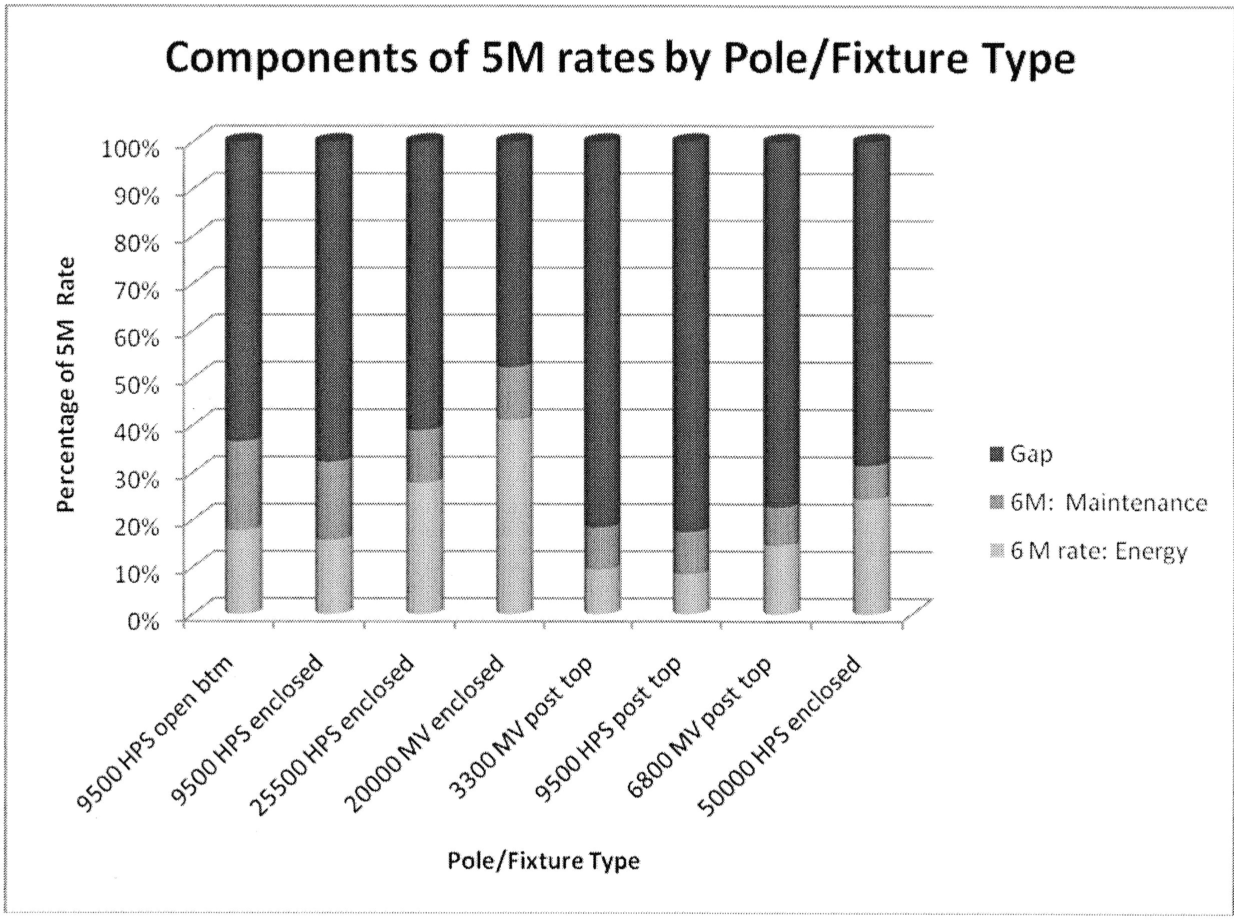
A comparison of the 5M rates and the 6M rates for energy and maintenance under the current tariff for the exact same type streetlighting are revealing:

Comparison of 5M rate and 6M Energy and Maintenance Rates					
Fixture Type	5M Rate	6M Energy Only Rate	Diff	6M Energy & Maintenance	Gap
20000 MV Open Btm	6.95	4.63	2.32	5.89	1.06
50000 HPS enclosed	22.12	5.41	16.71	6.98	15.14
9500 HPS open btm	7.6	1.35	6.25	2.78	4.82
9500 HPS post top	15.91	1.35	14.56	2.78	13.13
25500 HPS enclosed	12.41	3.45	8.96	4.84	7.57
6800 MV post top	15.91	2.32	13.59	3.62	12.29
6800 MV Enclosed	8.59	2.11	6.48	3.29	5.3
3300 MV post top	15.04	1.43	13.61	2.78	12.26
20000 MV enclosed	12.41	5.1	7.31	6.49	5.92
9500 HPS enclosed	8.59	1.35	7.24	2.78	5.81

(Exhibit 750, Eastman p. 7).

The Municipal Group acknowledges that the 5M rate covers the maintenance of the entire pole, fixture and underground/overhead wiring to the fixture/pole, whereas the 6M maintenance only covers repairs to the eye, bulb replacement and cleaning (AmerenUE Tariff Sheet No. 45). However, the Municipal

Group believes that the "gap", that is the difference between the 6M energy and maintenance rates and the 5M overall rates, is excessive given the scope the gap is to cover under 5M. The magnitude of the gap is illustrated below:



(Exhibit 750, Eastman p. 9).

Ameren claims that the "gap" (the difference between the 6M rates for energy and maintenance and the 5M rates) is the higher level of maintenance. Based on the current 5M rate gap in University City is $25,282 monthly/$304,607.76 yearly or 47,7% of its bill (Exhibit 750, Eastman pp. 8-9). This does not include the $14,375 month/$172,505.40 yearly for pole installation charged for wood, concrete and ornamental poles installed prior to September 27, 1988 (Exhibit 750, Eastman p.9).

Despite repeated requests, AmerenUE did not provide the University City or the Municipal Group with any documentation to justify the maintenance charges under the 5M rate (Exhibit 750, pp.

10-12). AmerenUE's 5M rates are simply a conglomeration of unsubstantiated costs plus years of rate increases tacked on. AmerenUE has no cost basis for the gap charges under the 5M classification. The only data received from AmerenUE were maintenance tally sheets submitted to the City of University City. The tally sheets indicated a tally for each type of repair performed on the 5M streetlighting since 2004. A copy of this tally sheet is attached hereto as Schedule PAE-2 to Exhibit 750. A single call to a pole/fixture could generate multiple tallies for various component parts examined by service personnel in the field. In examining the tallies it is clear that the primary problem reported for the 5M streetlights revolve around the eye/bulb presumably all covered under the 6M maintenance rate.

The streetlighting in University City is amongst the oldest in the state and therefore likely to have more maintenance issues than newer lights in newer suburbs. Thus, looking at the tally sheet from University City, it actually skews the overall data in favor of more maintenance costs, not less. Nevertheless, the maintenance of the 5M lights beyond the eye/bulb is not significant and does not justify the gap.

Furthermore, the City reviewed its public records to determine the number the times AmerenUE (or its subcontractors) obtained excavation permits under the assumption that the maintenance that includes repairs of underground cable is more expensive than other types repairs. The City's records revealed only a handful of excavations were performed by AmerenUE (or its subcontractors) since 2004. The costs of these repairs would hardly cause the magnitude of the gap (Exhibit 750, pp. 10-12).

The PSC should order a moratorium on any new 5M and 6M tariff rates until AmerenUE's next rate case when the streetlighting cost of service study is completed.

IV. Allocation of Revenue Requirements to Streetlighting rates based on the average to other rate classes is unfair and disproportionately distributes costs from other rate classes to streetlighting.

Over the past twenty years at least, AmerenUE's average rate increases have simply been layered onto existing streetlighting rates without regard to their costs; and since Ameren cannot even produce the streetlighting cost of service study that it says it performed sometime in the 1980's (Tr. p. 2872), it is unclear what evidentiary base the current streetlight rates are built on. Again this year, AmerenUE and other parties propose to "layer on" whatever the average rate increase is to current streetlighting rates. This is fundamentally unfair insofar as the revenue required for all classes is largely dependent on maximum usage during peak demand periods. PSC staff, the only entity to even address streetlighting in the direct case, acknowledged that streetlighting has a "unique load pattern because it is on at night and, for the most part, off during the day" and "therefore, its class load it typically very low during periods of peak demand" (PSC Staff witness John Rogers, Exhibit 205, Class Cost of Service and Rate Design Report, p.12). PSC staff admitted that "[s]everal of the key allocation factors for Production, Transmission and Distribution costs, calculated for this case, are based on peak demand." (Staff Exhibit 205, p. 12). Thus, "***using these demand dependent factors for allocating costs to the LTG class, which does not participate during peak demand periods, produces erroneous results for the LTG class and skews the results for the other classes***." (Staff Exhibit 205, p. 12).

To allocate any increase (due to whatever revenue requirement is determined) to the Lighting Class (which includes 5M customers) would continue to disproportionately burden the class and unfairly cause the Lighting Class to bear more demand related expense that it does not cause. The Lighting Class has over many years borne the burden of the average, when the average is skewed toward peak demand classes (which are essentially all classes, except lighting). The result is that the underlying rates for streetlighting are likely grossly exaggerated before any rate increase is imposed. PSC staff's testimony implicitly lends support to the Municipal Group's request for a moratorium on any rate increase for the streetlighting class.

Thus, the Municipal Group seeks a moratorium on any rate increase for streetlighting until the completion of the streetlighting cost of service study is completed and reviewed in AmerenUE's next rate case.

V. The cost of pole installations incurred prior to September 27, 1988 have already been paid in full and should be removed from the 5M tariff and any revenues received by other facilities (cable, telephone and electric) for use of said poles should be credited back to the 5M customers.

In the 5M tariff, customers continue to be billed for the initial cost of installation of poles—wood, concrete and ornamental—that were incurred for poles installed prior to September 27, 1988 (AmerenUE Tariff Sheet No. 40). These are poles that are at least 22 years old (some likely to be 30, 40, 50 years or even older). The 5M municipal customers are paying installments on the original installation costs to AmerenUE long past the time the actual costs of installation and financing of such installation should have been paid. For wood poles put in service in 1988 the installation charges were $7.33 per pole per month (AmerenUE Tariff Sheet No. 40). Over 22 years this would have realized $1935.00 per pole.

Mr. Cooper of AmerenUE testified in his surrebuttal (Exhibit 137) and on cross examination that the charges for poles are simply a rental fee paid to AmerenUE with no expiration date (Tr. 2872-74). This is contrary to the language of the tariff and practice. First, the language of AmerenUE Tariff Sheet No. 40 does not refer to "pole rental". It specifically says:

"E. All poles and cable, where required to provide lighting service:

1. After September 27, 1988, the ***installation*** of all standard poles and cables shall be paid for in advance by customer, with all subsequent replacements of said facilities provided by the Company. (emphasis added)

2. ***Installations*** prior to September 27, 1988:

Wood Pole	$7.68
Ornamental Pole	$17.21
Steel Breakaway Pole	$51.77
Standard Two-Conductor	

Overhead Cable	$2.38
Underground Cable Installed In and Under Dirt	7.06 cents
All other underground Cable Installations	13.45 cents"

Nowhere is there any indication that the charges are for rental of wood poles or that such charges are to be imposed indefinitely.

Secondly, the practice of charging up-front one price for installation of poles *after 1988* demonstrates that this was meant to be a sum-certain charge, not an ongoing rent. Poles installed prior to 1988 were simply financed and the installation costs paid over a period of years. The Municipal Group contends, based on how much has been paid over the course of at least 22 years that such installation fees (and financing costs) have been more than fully paid.

In addition, it was revealed through cross-examination that AmerenUE has been collecting fees from other entities using those same poles for telephone lines, cable TV, wireless antenna and even AmerenUE's own distribution wires (Tr. 2877-80), yet none of those fees collected by AmerenUE have been credited against the original installation costs borne exclusively by 5M customers.

For these reasons the Municipal Group requests that the Commission remove the pole installation charges from AmerenUE's Tariff Sheet No. 40 until AmerenUE can justify such charges in its next rate case.

WHEREFORE, the Municipal Group respectfully requests that Commission order:

1) a moratorium on any new streetlighting rates under the 5M rates and 6M tariffs pending the outcome of the cost of service study and its introduction in AmerenUE's next rate case, or, in the alternative that AmerenUE hold in escrow any increase ordered for the 5M and 6M streetlighting rates pending the review of the streetlighting cost of service study in Ameren's next rate case; and

2) the elimination of any future pole installation charges from 5M customer bills until such pole installation charges can be justified in AmerenUE's next rate case; and

3) a credit for the 5M customers for all other revenues received by Ameren from itself and other entities for their use of these same poles for telephone, cable TV, electric distribution lines, etc.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

A true and correct copy of the foregoing documents was either faxed, emailed, or mailed persons listed on the attached list on the 23rd day of April, 2010.

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