

**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

Staff of the Missouri Public Service  
Commission,

*[Handwritten signature]*  
Complainant,

v.

Union Electric Company,  
d/b/a AmerenUE,

Respondent.

**Case No. EC-2002-1025**

**NOTICE OF COMPLAINT**

Legal Department  
AmerenUE  
1901 Chouteau Avenue  
P.O. Box 66149, MC 07  
St. Louis, Missouri 63166-6149  
**CERTIFIED MAIL**

On April 15, 2002, the Staff of the Missouri Public Service Commission filed a complaint with the Missouri Public Service Commission against Union Electric Company d/b/a AmerenUE, a copy of which is enclosed. Pursuant to 4 CSR 240-2.070, Respondent AmerenUE shall have 21 days from the date of this notice to file an answer or to file notice that the complaint has been satisfied.

All pleadings (the answer or the notice of satisfaction of complaint) shall be mailed to:

Secretary of the Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 65102-0360

A copy shall be served upon the Complainant at the Complainant's address as listed within the enclosed complaint. A copy of this notice has been delivered to the Complainant.

OF THE STATE OF MISSOURI

BY THE COMMISSION

*Dale Hardy Roberts*

**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

(SEAL)

Dated at Jefferson City, Missouri,  
on this 17th day of May, 2002.

Copy to: Steven Dottheim  
Chief Deputy General Counsel  
Missouri Public Service Commission  
Post Office Box 360  
Jefferson City, Missouri 65102

Ruth, Senior Regulatory Law Judge

**FILED**

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

**APR 15 2002**

The Staff of the Missouri Public  
Service Commission,  
  
Complainant,

**Missouri Public  
Service Commission**

v.

Case No. EC-2002- *1025*

Union Electric Company, d/b/a  
AmerenUE,

Respondent.

**COMPLAINT AND PROPOSAL FOR PROCEDURAL SCHEDULE  
FOR THE THIRD AND FINAL YEAR OF THE SECOND  
UE EXPERIMENTAL ALTERNATIVE REGULATION PLAN**

Comes now the Staff of the Missouri Public Service Commission (Staff), pursuant to Section 7.f.vi. of the Stipulation And Agreement filed on July 12, 1996 in Case No. EM-96-149, approved by the Missouri Public Service Commission (Commission) in a Report And Order issued on February 21, 1997, and files the instant Complaint.<sup>1</sup> The Commission's approval of said Stipulation And Agreement established a second experimental alternative regulation plan (EARP) which commenced July 1, 1998. Among other things, this Stipulation And Agreement provides for the Staff to file a complaint with the Commission if the Staff believes that the operating results of Union Electric Company, d/b/a AmerenUE, have been manipulated to reduce amounts to be shared with customers. In support of the instant Complaint, the Staff states as follows:

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<sup>1</sup> The relevant sections in general respecting complaints are Sections 386.390, 393.130.1, 393.260 and 393.270 RSMo. 2000. The relevant Commission Rule respecting complaints is 4 CSR 240-2.070. The Staff may file complaints by delegation of Commission authority, pursuant to Section 386.240 RSMo. 2000. The Commission delegated such authority by its approval of the Stipulation And Agreement in Case No. EM-96-149.

FILED  
JUL 2 1996  
CLERK OF THE COURT  
JUL 2 1996  
1. Ameren Corporation (Ameren) is a Missouri corporation and a registered holding company under the Public Utility Holding Company Act of 1935, as amended, and Union Electric Company (UE), d/b/a AmerenUE, is a Missouri corporation and a utility subsidiary of Ameren. UE's principal office and place of business is located at One Ameren Plaza, 1901 Chouteau Avenue, St. Louis, MO 63103.

2. UE is an "electrical corporation" and a "public utility" as those terms are defined in Section 386.020 RSMo. 2000.

3. UE provides electric service within an area in Missouri certificated to it by the Commission.

4. UE is subject to the jurisdiction, regulation, and supervision of the Commission pursuant to Chapters 386 and 393.

5. Section 7.f.vi. of the Stipulation And Agreement entered into by the Staff on July 12, 1996 and approved by the Commission on February 21, 1997 provides, in part, as follows:

If Staff, OPC or other signatories find evidence that operating results have been manipulated to reduce amounts to be shared with customers or to misrepresent actual earnings or expenses, Staff, OPC or other signatories may file a complaint with the Commission requesting that a full investigation and hearing be conducted regarding said complaint. UE shall have the right to respond to such request and present facts and argument as to why an investigation is unwarranted.

(Emphasis supplied). A not all-inclusive list of examples of earnings manipulation, among other bases for seeking Commission resolution of issues, is included in Section 7.f.vii. of the Stipulation And Agreement in Case No. EM-96-149. Said section states as follows:

UE, Staff, OPC and other signatories reserve the right to bring issues which cannot be resolved by them, and which are related to the operation or implementation of the Plan, to the Commission for resolution. Examples include disagreements as to the mechanics of calculating the monitoring report, alleged violations of the Stipulation and Agreement, alleged manipulation of earnings results, or requests for information not previously maintained by UE. An allegation of manipulation could include significant variations in the level of

expenses associated with any category of cost, where no reasonable explanation has been provided. The Commission will determine in the first instance whether a question of manipulation exists and whether that question should be heard by it.

6. The Staff this date is filing its prepared direct testimony and schedules respecting areas of disagreement that exist with UE respecting the third and final year of the second EARP. In said prepared direct testimony, the Staff witnesses identify the following adjustments as based, in part, on the manipulation of earnings by UE to reduce amounts to be shared with customers:

Advertising

Legal Fees

Environmental Expense

Injuries And Damages Expense

Capital Structure<sup>2</sup>

Venice Plant Fire

Coal Inventory

Midwest Independent System Operator Exit Fees

Pension Liability

The prepared direct testimonies of the Staff witnesses identify additional grounds, Sections 7.f.vii., 7.f.viii. and/or 2.g. of the Reconciliation Procedure for bringing these areas to the attention to the Commission for resolution.

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<sup>2</sup> The one issue respecting the third year of the second EARP which is not an issue raised by the Staff in Case No. EC-2002-1 is the capital structure issue addressed in the testimony of Ronald L. Bible filed this date in Case No. EM-96-149 and the instant Complaint case.

7. The Staff this date also is filing a proposed procedural schedule in Case No. EM-96-149 for the hearing of the items that do not constitute earnings manipulation under the Stipulation And Agreement that established the second EARP. The Staff does not believe that a different procedural schedule is required for Staff adjustments based on Section 7.f.vi. than for Staff adjustments based on Sections 7.f.vii., 7.f.viii. and/or 2.g. UE may raise matters in its rebuttal testimony and schedules that warrant further investigation by the Staff. The Staff also notes that the Office of the Public Counsel (Public Counsel) filed in Case No. EM-96-149 on November 15, 2001 Notice Of Areas Of Disagreement respecting the third year of the second EARP and has indicated to the Staff that it will soon file direct testimony and schedules on certain areas of disagreement and a complaint respecting earnings manipulation.

8. The Staff has discussed the matter of procedural schedule with UE, but the Staff and UE have not been able to reach agreement. The proposed procedural schedule which follows is similar to the procedural schedule that the Staff has discussed with UE and Public Counsel, except in particular for the proposed hearing dates which are earlier than the dates previously suggested by the Staff due to schedule conflicts with the Laclede Gas Company rate increase case.

9. The Staff suggests that, as provided by Commission rule 4 CSR 240-2.080(16), the parties to this case be accorded ten (10) days to respond to the Staff's proposed procedural schedule, but that the Commission also schedule a prehearing conference for April 30, 2002 for the purpose of addressing the matter of a procedural schedule. The Staff recommends to the Commission the following procedural schedule:

Prehearing Conference

April 30, 2002

UE Files Rebuttal Testimony

June 10, 2002

Staff and Public Counsel File Surrebuttal Testimony

July 31, 2002

List of Issues to be Heard, Order of Witnesses  
and Order of Cross-Examination

August 6, 2002

Statements of Positions

August 8, 2002

Evidentiary Hearings

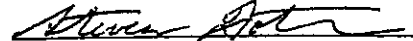
August 14-16, 2002

Wherefore the Staff files the instant Complaint relating to those Staff adjustments to the third year sharing credits of the second EARP of Union Electric Company that the Staff states involve earnings manipulation as covered by the Stipulation And Agreement approved by the Commission in Case No. EM-96-149, and requests that the Commission adopt the procedural schedule proposed above.

Respectfully submitted,

DANA K. JOYCE  
General Counsel

/s/ Steven Dottheim

  
Steven Dottheim  
Chief Deputy General Counsel  
Missouri Bar No. 29149

Attorney for the Staff of the  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102  
(573) 751-7489 (Telephone)  
(573) 751-9285 (Fax)

### Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 15th day of April 2002.

/s/ Steven Dottheim

