

In the Matter of Filing Requirement)
Rules for Electric Utilities.) Case No. EX-2007-0214

COMES NOW Union Electric Company d/b/a AmerenUE (AmerenUE or Company), and for its *Comments on the Commission's Proposed Filing Requirements for Electrical Corporation Infrastructure Standards*, proposed to be codified at 4 CSR 240-23.020, states as follows:

1. On June 14, 2007, the Missouri Public Service Commission (Commission) voted to send proposed Filing Requirements for Electrical Corporation Infrastructure Standards to the Secretary of State for publication. The proposed rulemaking called for comments to be submitted in this case no later than August 15, 2007.

2. AmerenUE supports the Commission's efforts to set forth clear and unambiguous standards regarding the inspection and maintenance of electric utility infrastructure. The Company hopes this process will provide additional insight to the Commissioners and all participants regarding the types of infrastructure inspection and maintenance that already occurs and the additional inspection and maintenance that would occur as a result of this rule. Transparency in the utility inspection and maintenance process will provide all parties with a greater understanding of utility operations during normal weather conditions and, more importantly, during times of

severe weather or other events which negatively impact electric systems within the State of Missouri.

Comments on Specific Portions of the Proposed Rule¹

Purpose Clause

3. The Purpose clause of the proposed rule states that it “...establishes the minimum requirements for the distribution and transmission facilities...” Transmission facilities are very different from distribution facilities and, accordingly, are treated differently by electric utilities in Missouri. The proposed rule recognizes this by not including inspection schedules for transmission facilities. Rather, the proposed rule deals exclusively with distribution facilities. Consequently, the purpose clause should be revised by removing the words “and transmission.”

Section (2): Definitions.

4. Section (2)(B) defines “Detailed inspections.” The definition is appropriate as long as it is clarified to provide that “This definition does not prohibit each electrical corporation from designing its own detailed inspection process and rating system for each type of equipment.” The Company suggests that this clarification be added as a new sentence at the end of the definition to ensure that utilities have the flexibility to design a workable inspection process tailored to each utility’s distribution system.

5. Sections (2)(F) and (G) define “Rural” and “Urban.” These definitions rely upon data as reported to the United States Census Bureau. This method is an inferior way to classify rural and urban areas because using population data is somewhat

¹ Attached to these Comments as **Exhibit 1** is a marked-up version of the proposed rules showing the changes suggested by AmerenUE, which are discussed in detail in these Comments.

impractical given that utility operating areas and circuits do not follow the same geographical boundaries used for census data. AmerenUE proposes adding an alternative definition which would allow the electric utility to define Rural and Urban by customer density per circuit mile. AmerenUE currently classifies as rural any circuit which has less than 35 customers per circuit mile. The alternative definition should be added as the following phrase after the word “Census” in both definitions: “or a circuit which has less than 35 customers per circuit mile” (or, in the case of the definition of “Urban” substitute “35 or more” for “less than 35”).

6. AmerenUE also proposes the addition of a definition of “Distribution line” in Section (2), to read as follows: “Distribution line means a primary electric voltage line, wire or cable, less than 100 kV, including supporting structures and appurtenant facilities, which deliver electricity from the connection point at the first structure outside the substation to the point of connection at the customer’s premises.” This definition is identical to the definition of “distribution line” suggested for inclusion in the proposed vegetation management rules.

Section 3

7. Section (3) contains standards for inspection, record-keeping and reporting. Section (3)(A) refers to a table attached to the proposed rule entitled “Electrical Corporation System Inspection Cycles (Maximum Intervals in Years).” AmerenUE recognizes the value of having a maximum inspection cycle, but believes the table in the proposed rule is too aggressive when compared to the immaterial benefit such an aggressive schedule would produce and given the cost to ratepayers such an aggressive schedule will require. For example, patrol inspections of overhead

transformers are unlikely to reveal useful information about a transformer's health. Consequently, spending the money necessary to patrol every overhead transformer each year has a real cost without any corresponding benefit. AmerenUE proposes the following table in lieu of the one in the proposed rule, which strikes an appropriate balance between the costs and benefits of maximum inspection cycles:

	Patrol		Detailed		Intrusive	
	Urban	Rural	Urban	Rural	Urban	Rural
Transformers						
Overhead	4	6	-	-	-	-
Underground - Direct Buried Distribution Circuits *	1	2	5	5		
Underground - Buried Distribution constructed of Ethylene Propylene Rubber (EPR) *	1	2	5	5		
Network (includes Protectors)	1	-	1	-		
Padmount (including Secondary Pedestals)	4	6	4	6	-	-
Reclosers / Sectionalizers						
Overhead	1	1	-	-	-	-
Underground - Direct Buried Distribution Circuits *	1	2	5	5		
Underground - Buried Distribution constructed of Ethylene Propylene Rubber (EPR) *	1	2	5	5		
Padmount	4	6	4	6	-	-
Switches / Switchgear						
Overhead	4	6	4	6	-	-
Underground - Direct Buried Distribution Circuits *	1	2	5	5		
Underground - Buried Distribution constructed of Ethylene Propylene Rubber (EPR) *	1	2	5	5		
Padmount	4	6	4	6	-	-
Regulators / Capacitors						
Overhead	1	1	5	5	-	-
Padmount	4	6	4	6	-	-
Other						
Overhead Cables / Conductors	4	6	-	-	-	-

Streetlighting	4	6	-	-	-	-
Wood Poles	4	6	-	-	-	-
Wood Poles, 15 years of age or older	-	-	-	-	12	12

* Except for submersible equipment, inspections of underground distribution facilities are not practical and thus, this rule requires such inspections according to this table for submersible equipment only.

8. The first change from the proposal rule's inspection schedule is the addition of an asterisk note relating to the Underground Circuit sections of the proposed rule's table. The addition of the note relating to submersible equipment only clarifies the intent of these sections in the table by taking into account the impracticality of inspecting buried, underground distribution infrastructure. Indeed, it is impossible to visually inspect buried cable and equipment, as would be required in the definition of "patrol" and "detailed" inspections. Consequently, compliance with those sections of the inspection schedule should only be required for submersible underground equipment.

9. The second change to the table is related to the maximum number of years between inspections. The schedule set forth in the proposed rule is overly aggressive and would not produce an improvement in infrastructure integrity necessary to justify the considerable costs imposed by the schedule as currently proposed. That the proposed rule is overly aggressive is demonstrated by the extensive work done by the Company in the past year which resulted in an optimized schedule that was implemented by AmerenUE in January of this year. This work was the result of a long-term analysis by a group of ten individuals with various areas of job responsibilities within the Company, including those responsible for reliability, vegetation management, operations and engineering. This group's efforts, utilizing years of utility experience from the four

Ameren operating companies, developed an optimal inspection schedule, which is reflected in the revised table set forth above. While inspections of AmerenUE's more than 750,000 wood poles and their attachments every year may appear facially appealing, that requirement would not be linked to how quickly the system would actually deteriorate. The Company's team concluded that inspecting the system every four years (urban) and six years (rural) for visual defects and every twelve years for wood pole physical assessments will bring to light any conditions that need to be more closely monitored. To annually inspect poles and attachments showing no deterioration is a wasteful, sub-optimal use of utility resources creating real costs for ratepayers, with little or no consequent benefit.

10. Section 3(A) also goes beyond the Commission's statutory authority in purporting to require the assurance of a "reliable, high quality" operation. The Commission is a creature of statute, and has only those powers given to it by the Legislature. *State ex rel. Monsanto Co. v. Pub. Serv. Comm'n*, 716 S.W.2d 791, 796 (Mo. banc 1986). Section 393.130.1, RSMo. establishes the utility's duty respecting the operation of its system, as follows: the Company has a duty to provide "such service instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable." The Company does not take issue with the concept that the statutorily prescribed duty should equate to a reliable system, but objects to what could be argued as an attempt to expand its duties beyond that legislatively authorized. Moreover, it is unwise to inject potential ambiguities into the interpretation of the well-established body of law created by Section 393.130.1, and the cases decided thereunder. Consequently,

Section 3(A) of the proposed rule should be changed to conform to the statutory language and, if desired, to include a reference Section 393.130.1, RSMo.

11. Section (3)(B) requires, for the first year, the utility to file a compliance plan and, for its detailed and intrusive inspections, to provide a schedule by the month of inspection and the circuit, area or equipment to be inspected. While AmerenUE realizes monthly schedules would appear to provide an easy checklist for the Commission Staff and the Commission to determine whether or not the electric utility is proceeding according to plan, the Company is concerned that this requirement may negatively impact the flexibility necessary for efficient operation of the utility. Preliminary schedules are developed by AmerenUE but they may be periodically revised throughout the year to compensate for changes in environmental (such as major storms), operational, and field conditions. Accordingly, AmerenUE could be left in a position where it would be desirable to adjust its schedule, but because it would mean the Company would not meet its previously filed inspection plan, the proposed rule would have created a disincentive to making the adjustment even though it would be more efficient to do so. Consequently, the Company recommends that the rule require the filing of a preliminary schedule for detailed and intrusive inspections each year indicating the expected month each inspection will start in each of the Company's divisions. A mid-year status report could also be filed with the Commission indicating the progress of the inspections, along with any changes to the initial schedule.

12 Also with respect to Section (3)(B), the Company is unclear on what "verification" would be required for a compliance plan. A verification respecting whether the results of inspections are accurate to the best of the officer's knowledge

makes sense, but a compliance plan is not a report of facts known to an officer and thus there are no “facts” to “verify.” Rather, it a compliance plan is simply a forward-looking plan. Consequently, verification, in this context should not be required.

13. Section (3)(C) is the annual reporting requirement to identify the number of facilities and equipment inspected during the previous year. If facilities were scheduled for inspection but were not inspected, the proposed rule requires that the report provide an explanation of why the scheduled inspection did not occur. The proposed rule does not specify the amount of detail required and it is AmerenUE’s belief that to require detail beyond generic explanations – storms, manpower shortage, etc. – would be very time consuming as it would require documentation specific to each and every facility. Again, AmerenUE is concerned that the rule could be interpreted in a manner that creates a level of work that is grossly disproportionate to the associated benefit the work would provide. This concern would be alleviated by adding the phrase “general explanation” so that the sentence reads, “For the latter, a brief general explanation will be provided, including a date by which required corrective action will occur.”

14. Section (3)(E) requires that utility record-keeping include the name of inspector and also of all persons performing corrective action. AmerenUE, like other electric utilities in the State of Missouri, relies on contractors for much of its inspection and repair work. In those situations, AmerenUE does not know what specific individual did any specific inspection or repair. The Company recommends the proposed rule be changed to provide that identification of the contractor with whom the utility contracted is sufficient, rather than requiring a specific individual’s name.

15. Section (3)(F) contains a citation to certain other Commission rules. One citation in the proposed rule is an apparent reference to “reliability rules” which are currently under discussion, but which have not been proposed and which are not codified (i.e., the citation to 4 CSR 240-23.030). Because the proposed infrastructure rule cannot validly cite a non-existing rule, this citation should be removed.

Section 4

16. Section (4) purports to set forth penalties, sanctions and/or ratemaking disallowances which may be imposed upon a utility that does not meet the standards required by this rule. The Commission has no authority to impose penalties or sanctions. The only authority is found in the Commission’s enabling statutes, and then only the Circuit Court, at the instance of the Commission’s General Counsel (authorized to proceed by the Commission) can impose penalties or determine the amount of penalties to be imposed. Consequently, no authority for Section (4) of the proposed rule exists and it should be stricken. Existing statutes provide a remedy (e.g., Section 386.570.1, RSMo.) in that they explicitly provide for penalties for the violation of a “rule” of the Commission, which would include these infrastructure standards.

17. Section (4)(B) requires the utility to correct any violation within five days of receipt of a written notice of violation. As there is not a definition of what constitutes a “violation” of the proposed rule, the Company is concerned that a strict interpretation of this Section may lead to unnecessary sanctions and/or fines against the Company. While the Company respects the need for an immediate response to certain violations of this proposed rule, the five day correction requirement is an extremely short time period for

what may not be a safety violation. AmerenUE proposes changing the five days to 30 days for violations that do not result in a safety risk or outage.

Conclusion

18. AmerenUE believes the development of this infrastructure rule to be a very important process and appreciates the opportunity to provide its input. As history demonstrates, when parties have differing expectations, it leads to confusion between the utility and the Commission and even with the public in general. To the extent that these rules provide a workable guideline for all electric utilities to follow, the resulting transparency will benefit everyone.

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