

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

In the Matter of Union Electric Company )  
d/b/a AmerenUE's Tariff Increase its )  
Annual Revenues for Electric Service )

Case No. ER-2011-0028

**THE MUNICIPAL GROUP'S POST HEARING BRIEF**

Comes now the St. Louis County Municipal League, the Cities of O'Fallon, Creve Coeur, University City, Olivette, St. Ann, Kirkwood, Bellefontaine Neighbors, Florissant, Richmond Heights, Twin Oaks, Ballwin, Brentwood, Riverview, St. John and Sunset Hills (hereinafter the "Municipal Group") and offer their brief following the Missouri Public Service Commission's ("PSC") hearing in consideration of AmerenUE's request for an increase in its tariffs in the provision of electrical service. The Municipal Group only has one issue in dispute concerning street lighting. As proposed *and as configured*, AmerenUE's proposed rate increase of 9.7% for the 5M subclass Lighting Class will actually cause the 5M lighting rates by light type to be increased by 22.2%. At the center of the dispute is AmerenUE's treatment of pre-1988 pole installation charges. The Municipal Group has laid out the details of this simple mathematical issue through the direct, rebuttal, surrebuttal and live testimony of witness, Petree Eastman<sup>1</sup>. (Exhibits 750, 751 and 752) AmerenUE brings forth no evidence to refute the Municipal Group's calculation of the issue. The Municipal Group urges the PSC to closely examine the methodology proposed by AmerenUE and adopt the alternative proposal of the Municipal Group

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<sup>1</sup> In an attempt to avoid the sole issue in this case, AmerenUE has attempted to strike the testimony of Ms. Eastman claiming that she is not an expert in rate making, or performing cost of service studies. This is a red-herring. Ms. Eastman has performed only simple mathematical calculations that only involve division. Moreover, during the course of her career she has repeatedly analyzed many program and processes and their concomitant costs. She is an attorney and has a Masters in City Planning. She most recently was the Assistant City Manager for the City of University City, whose primary responsibility was the critical analysis of programmatic costs on a wide variety of complex topics. (PAE Direct Testimony pp.1) Nevertheless, the sole issue raised by the Municipal Group is not about rate making per se or cost of service. It is about simple mathematics and how AmerenUE proposes a methodology of applying a percentage increase in rates that unfairly burdens members of the subclass.

to insure fairness to the Lighting Class in whatever across-the-board system average increase is approved by the PSC. The Municipal Group supports AmerenUE's recommendation that the Lighting Class as a whole receive the system wide average of any revenue increase.

### **Background**

In the previous rate case, ER 2010-0036, the Municipal Group, then made up of the cities of O'Fallon, University City, St. Ann and Rock Hill, and the St. Louis County Municipal League intervened in order to raise issues concerning the rates being charged and proposed for the Lighting Class. No cost of service study for the Lighting Class had been performed in years and there appeared to be a wide discrepancy between the rates charged between the customers of the 5M subclass (those customers who do not own their street lights/poles) and the 6M subclass (customer-owned street lights/poles) for the same type of lights and poles. The Municipal Group also contested the charges to 5M customers for pole installations that occurred prior to September 1988. The 5M subclass makes up 89.6% of the Lighting Class revenues. Since no Class Cost of Service Study had been performed, AmerenUE could not adequately explain the rates being charged or answer the questions posed by the Municipal Group. The PSC ruled that the Lighting Class would be exempt from any rate increase. (Report and Order, pp 99-100, ER-2010-0036). It further approved a First Stipulation and Agreement that AmerenUE perform a Class Cost of Service Study for lighting for its next rate case. (Report and Order, p. 96, ER-2010-0036).

Thereafter, AmerenUE performed a Class Cost of Service Study which was filed by AmerenUE contemporaneously with the instant rate case, ER-2011-0028. In its new rate case, AmerenUE proposed a 10.8% increase for the overall Lighting Class, but applied slightly differing percentages for the three (3) primary subclasses, 5M, 6M and 7M. (DiFani Direct Testimony, pp. 6-7, p. 10). AmerenUE acknowledged that it was not increasing rates to

completely cover its costs as determined by its own Class Cost of Service Study, but merely applied the across-the-board system wide average it was proposing for all classes. (Cooper Direct Testimony, pp. 23-24; DiFani Direct Testimony, p. 7). The Municipal Group lacked resources to thoroughly analyze Ameren's Class Cost of Service Study ("CCOSS") for lighting, was unable to contest Ameren's Lighting Class Cost of Service Study and, thus, it must accept this study for this record.

In the testimony of AmerenUE officials, AmerenUE claims to only increase the 5M revenue stream by 9.7%. (DiFani Direct Testimony, p. 7) (Cooper Direct Testimony pp. 23-34). However, because of AmerenUE's treatment of the pre-1988 pole installation charges, AmerenUE actually proposed to increase the lighting rates<sup>2</sup> for the 5M subclass by 22.2%. (See PAE Direct testimony, pp.4-6, including PAE Exhibit 1). AmerenUE's witness, DiFani, testified that the company proposed to "discontinue" collecting the monthly pole charge for poles installed prior to September 27, 1988 as called for under paragraph E.2 on Tariff Sheet No. 40. However, like a pea in a shell game, to make up for the \$2,850,159 in lost revenue associated with the pre-1988 pole installation charges, AmerenUE simply spread these "costs" to lighting rates for all lights/poles in the 5M subclass. (See Proposed Tariff Sheet No. 39). However, this maneuver disproportionately penalizes those 5M customers that pre-paid for their pole installations after September 1988. (Tariff Sheet No. 40, paragraph E.1). In essence, AmerenUE is asking that pre-1988 pole installation charges that were previously paid by some 5M

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<sup>2</sup> Under the tariffs as reflected in the monthly statements sent to Lighting Class customers, there are a number of charges for electrical service including the lighting rates by light/pole type, pole installation charges, overhead span charges, underground cable/wiring, and Rider FAC adjustments. However, the bulk of any bill is in the lighting rates by light/pole type. (See e.g. PAE- Exhibits 2 and 3 of Eastman's direct testimony). Lighting charges are made up of various light types whereby the customer is charged for a specific rate times the number of lights of that type. Thus, when the Municipal Group is discusses the Lighting rates it is referring the individualized rates for each light/pole type only as shown on Union Electric Tariff Sheet No. 39.

customers now be spread over the entire 5M subclass, even those that paid 100% upfront for the installation of their poles after 1988.

### **The Pole Installation Dilemma**

During the last rate case and from the outset of this case, the Municipal Group has sought to eliminate charges within the 5M subclass associated with the installation of poles prior to September 1988. The pre-1988 pole installation charges make up \$2,850,278 of the Lighting Class Revenue. According to the plain reading of the current tariff, customers who had poles installed prior to September 1988 were charged varying monthly rates depending on the pole type. (See Tariff Sheet No. 40). Those who had poles installed after September 1988 were required to pre-pay 100% the cost of a pole installation. While AmerenUE claims to have eliminated these charges, in actuality the revenue stream that AmerenUE has been collecting for the pre-1988 pole (\$2.8 million annually) will still be collected under its proposed rate structure by spreading these costs to the entire 5M lighting class. In order to understand the Municipal Group's objection and its alternative proposal, it is critical to understand the nature of the charges to demonstrate why they must be truly eliminated going forward.

AmerenUE contends that these pole charges are in the nature of "rent" with no certain ending point, but offered no evidence in support of this contention. However, it defies logic that the pole installation charges are rent for two reasons:

- 1) The language of the tariff at Sheet No. 40 describes the charges as relating to the *installation* of poles. No description of the charges as "Rent" or "Monthly Fee" appears anywhere in the tariff. The current tariff states:

"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 Company.

2. Installations prior to September 27, 1988:

	<u>Monthly Rate</u>
Wood Pole	\$7.68 per pole
Ornamental Pole	\$17.21 per pole
Steel Breakaway Pole	
	\$51.77 per span
Standard Cable Installed In And Under Dirt	7.06 cents per foot
All Other Underground And Cable Installations	13.45 cents per foot.”

- 2) For installations that occurred after 1988, 5M customers must pre-pay a finite sum amount for installation. It stands to reason that the costs of installation prior to 1988 also cost a sum certain and were finite, even if paid over time. According to AmerenUE’s own witness, Difani, it costs AmerenUE approximately \$650 to install a standard wood pole today. (T. 1034). In 1988 dollars, this would have cost only \$341.90, assuming use of the CPI. Over the course of 23 years, for poles installed in 1988, 5M customers will have paid *at least* \$2023 for that installation<sup>3</sup>. For poles installed in years prior to 1988, say 1975, the amount paid would be even greater.

These charges for poles installed prior to 1988 should be eliminated permanently. The 5M subclass customers that have been paying this charge for 23 years and more have *paid in full* the costs of installation of the poles.

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<sup>3</sup> In 1986 for example, per the 1986 tariff, Union Electric charged \$7.33 per month for installation of a wood pole. Multiplied out for 12 months a year for 23 years equals \$2023. This does not even account for all fees paid by these customers prior to 1988.

## Ameren's Proposal

AmerenUE claims to increase the 5M subclass rates by 9.7%. (DiFani Direct Testimony, p. 7). Yet, as The Municipal Group has shown, the pre-1988 pole installation charges were not in fact removed, but simply redistributed to all 5M customers, including those customers who prepaid in advance for the pole installations after 1988. As Ms. Eastman outlined in her Direct Testimony, this unfair discrimination is revealed very clearly when comparing a "newer" city like O'Fallon Missouri, with only miniscule pre-1988 pole installation charges to a "mature" city like University City with significant pre-1988 pole installation charges:

"For ease of discussion, I will compare the City of University City and the City of O'Fallon. University City an older inner ring suburb with monthly bill of \$52,173.(pre-FAC adjustment/rider/municipal discount/taxes) (See University City January 2011 bill Exhibit-PAE -2) which equates to \$626,076 per year for 5M utility owned street lighting. It pays \$14,375.48 per month/\$172,505.76 per year for pole installation and span charges for poles that were installed prior to 1988.

O'Fallon is a newer outlying suburb in St. Charles County. Its monthly bill prior to adjustments is \$67,770.87 per month/\$813,240 per year. (see O'Fallon January 2011 bill-Exhibit-PAE-3) They only have \$126 in monthly/\$1518.96 per year in pole installation charges because O'Fallon prepaid in full its charges for the majority of their pole installations.

The impact on the cities becomes clear when you impose the 22.5%<sup>4</sup> increase against both cities provided in the proposed tariff. University City would actually see a net decrease in it bill because the magnitude of the pole charges on the overall bill is significant. This calculated as follows:

<b>University City</b>	
Current Lighting Charge:	\$626,076
Less Pole Installation	172,505
Adjusted Base	\$453,571
Multiplied by 1.225 (request)	<b>\$555,624</b> (which includes pre-88 pole revenue request)
Percent Increase /Decrease	<b>-11.3%</b>

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<sup>4</sup> In the calculations made by Ms. Eastman in her direct testimony she applied 22.5% rather than 22.2%. This is not fatal to the analysis, however since the mathematics are merely illustrative.

However, when this exercise is conducted for O'Fallon, it becomes clear that all 5M cities, would assume the pro-rated and hidden revenue request for pole installation of pre-1988 poles, even to cities that paid in full up front for their pole installations after 1988 like O'Fallon:

<b>O'Fallon</b>	
Currently Lighting:	\$813,240
Less Pole Installation	1,518
Adjusted base	\$811,722
Multiplied by 1.225 (request)	<b>\$994,359</b> (which includes the pre-88 pole revenue request)
Percent Increase/Decrease	<b>+22.2%</b>

O'Fallon, that already pre-paid nearly all of its pole installation charges up front, would realize the full brunt the 22.5% rate increase.” (Eastman Direct Testimony, pp. 6-8).

Because of AmerenUE methodology of “eliminating “ the pre-1988 pole charges, a city like University City will see a significant decrease in their overall total bill simply because they are paying a significant amount for pre-1988 installation charges, \$172,505 per year. Under AmerenUE’s proposed rate scenario, University City would pay a greatly reduced portion of its pre-1988 pole installation charges because it has been spread to all 5M customers. More importantly, a city like O'Fallon, who already prepaid in advance for the vast majority of its pole installations, would be unfairly penalized because under AmerenUE’s proposal it would be asked to absorb those charges of other 5M customers via the 22.2% lighting rate increase. If AmerenUE’s pre-1988 pole charges were “just and reasonable” for the many years leading up to the present rate case, why is AmerenUE proposing to simply eliminate them completely in this rate case? And, why are these costs being spread to cities who pre-paid 100% for their poles after 1988?

**Municipal Group’s Alternate Proposal.**

The only way to insure true elimination of the pre-1988 pole installation charges and not unfairly burden 5M customers that prepaid in advance for their poles is to remove those “costs”

from the lighting class revenue requirement completely. The 5M municipalities who have been paying pole charges for pre-1988 poles have more than paid for the installation of those poles over the decades. Ameren's proposal to eliminate such charges completely, out-of-the-blue, is a virtual admission that such installation charges can no longer be justified. After that removal, the Lighting Class customers should be given the across-the board system average increase as recommended by AmerenUE. This is the only method that would fairly distribute any rate increase and not unfairly burden the municipalities which have paid in full for their pole installation costs.

Respectfully Submitted,

CURTIS, HEINZ, GARRETT & O'KEEFE, P.C.

/s/ Carl J. Lumley

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**CERTIFICATE OF SERVICE**

A true and correct copy of the foregoing document was served by e-mail on counsel of record for all parties of record in this case on the attached list on the 3<sup>rd</sup> day of June, 2011.

/s/ Carl J. Lumley

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