

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

In the Matter of Union Electric Company)		
d/b/a AmerenUE for Authority to File)		
Tariffs Increasing Rates for Electric)	Case No.	ER-2008-0318
Service Provided to Customers in the)		
Company's Missouri Service Area.)		

**OPPOSITION TO MOTION TO STRIKE PORTIONS OF THE DIRECT
TESTIMONY OF UNION WITNESSES**

COME NOW International Brotherhood of Electrical Workers Locals 2, 309, 649, 702, 1439, 1455, AFL-CIO and International Union of Operating Engineers Local 148, AFL-CIO (“Unions”), by counsel, and in opposition to the motion of Union Electric Company d/b/a AmerenUE (“Ameren” or the “Company”) to strike portions of the direct testimony submitted by union witnesses Michael Datillo, David Desmond, Michael Walter and Donald Giljum state:

1. The Unions filed the testimony of Michael Datillo, David Desmond, Michael Walter and Donald Giljum on August 28, 2008, timely serving copies of that testimony on all of the parties, including Ameren.

2. Missouri Public Service Commission Practice and Procedure regulation 4 CSR 240-2.080(15) requires that “Parties shall be allowed not more than ten (10) days from the date of filing in which to respond to any pleading unless otherwise ordered by the commission.”

3. Ameren did not file its motion to strike portions of the union testimony until November 25, 2008, almost *three months* after the union testimony was filed and three business days before the union witnesses are scheduled to start testifying. Ameren

did not offer any justification for its delayed filing. Accordingly, Ameren's motion should be denied as untimely.

4. Ameren attacks the recommendations section of the union testimony as being "wholly irrelevant and immaterial to the issues in this rate case proceeding, and [] beyond the statutory authority and jurisdiction of the Commission to adopt." (Motion to Strike at 1, para.2) Conversely, the recommendations are both relevant and material and within the statutory authority and jurisdiction of the Commission.

5. In a rate case, the Commission has the authority and responsibility to evaluate whether the utility is likely to provide safe and adequate service and whether it can do so while charging the customer a lesser rate than requested. The recommendations of all four union witnesses are directed expressly at "quality and efficiency," (*see* Testimony of David Desmond, p. 3, lines 12-19; Testimony of Michael Datillo, p. 3, lines 10-16) "efficiency and quality of service" (*see* Testimony of Michael Walter, p. 6, lines 9-16) and "safe and reliable generation of electricity" (*see* Testimony of Donald Giljum, p. 3). These recommendations are therefore clearly relevant and material to the issues of whether Ameren provides safe and adequate service and provides it efficiently.

6. The Unions believe that Ameren is also mistaken about the extent of the Commission's authority. As the Commission has noted, its powers of regulation are comprehensive. One such power is to determine how much money to give to a utility through a rate case proceeding, including that they balance the utility's need and desire for money with the customers' need and desire for efficiency of that service. Another is to issue orders ensuring that service be safe and adequate. The Unions are conditionally

recommending a rate increase for Ameren. The conditions they have placed on their recommendation fits squarely within the above-referenced powers of the Commission, i.e., that Ameren be required to provide its service more efficiently through the means they outline, and that those same means be employed to ensure that the service provided is safer and more reliable. If the Commission does not have the authority to place such restrictions on its approval of a rate increase, then the Commission's authority is not, in fact, comprehensive, but merely illusory.

WHEREFORE, the Unions respectfully ask the Commission to deny Ameren's motion to strike portions of the unions' testimony.

Respectfully submitted,

/s/ Sherrie A. Schroder

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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing was served on November 26, 2008, by United States mail, hand-delivery, email, or facsimile upon all parties by their attorneys of record as disclosed by the pleadings and orders herein.

/s/ Sherrie A. Schroder