

October 14, 1999

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OCT 15 1999

Missouri Public
Service Commission



Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
Truman Building
301 W. High Street, 7-N
P.O. Box 360
Jefferson City, MO 65101

Re: Missouri Public Service Commission
Case No. GR-99-315

Dear Mr. Roberts:

Enclosed for filing in the above-referenced proceeding are an original and fourteen (14) copies of Union Electric Company's Initial Brief.

Kindly acknowledge receipt of this filing by stamping as filed a copy of this letter and returning it to the undersigned in the enclosed envelope.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susan B. Knowles".

Susan B. Knowles, Esq.

SBK/pag
cc: Service List

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED

OCT 15 1999

Missouri Public
Service Commission

In the Matter of Laclede Gas)
Company's Tariff Sheets to Revise)
Natural Gas Rate Schedules)

Case No. GR-99-315

INITIAL BRIEF OF UNION ELECTRIC COMPANY

Comes now Union Electric Company, d/b/a AmerenUE (hereinafter "UE" or "the Company"), by and through its attorneys, and pursuant to 4 CSR 240-2.140 of the Missouri Public Service Commission ("Commission") Rules of Practice and Procedure, files its Initial Brief as to certain issues pertaining to the above-captioned matter. In support thereof, UE states as follows:

I. STATEMENT OF THE CASE

This proceeding originates from a general rate case of Laclede Gas Company ("Laclede") filed with the Commission on January 26, 1999 as case number GR-99-315. In its filing, Laclede seeks, *inter alia*, a general increase of \$30.5 million annually in revenue and redesign of its general service rate schedule. Pursuant to 4 CSR 240-2.075, UE along with other interested parties (hereinafter collectively "the Intervenor") intervened in the proceeding. Hearings were held during the week of August 30, 1999 during which time Laclede, the Missouri Public Service Commission Staff ("Staff"), the Office of Public Counsel ("OPC"), and the Intervenor had the opportunity to present substantive evidence and cross-examine witnesses as to various issues presented by Laclede's general rate case. UE was present and participated fully during the Hearing.

While UE was able to negotiate a settlement of most of the issues forming the basis of its intervention,¹ there remain two issues upon which UE has chosen to submit written argument to the Commission for resolution. First, in its prefiled testimony, the Staff proposed certain changes to Laclede's tariff sheets with respect to service area boundary descriptions that pose an onerous burden on Laclede or UE if confronted with a similar requirement. Accordingly, both Laclede and UE vehemently object to the Staff's proposal.

Secondly, the Staff's proposed methodology for calculating net salvage in this proceeding departs from commonly accepted business practices and standards. Indeed, the approach offered by Staff witness Paul Adam runs counter to the methodologies used previously by this Commission and generally accepted utility accounting standards. The Company is deeply concerned and alarmed by the application of such a specious methodology. Accordingly, UE has elected to oppose the Staff's position on this issue and to join in the arguments presented by Laclede.

II. LEGAL STANDARDS

In administrative proceedings such as Laclede's general rate case, the Commission's rulings must be based on, and supported by, "competent and substantial evidence upon the whole record." § 536.140.2 (3). "Substantial Evidence" is evidence that if true, has probative force upon the issues; it includes only competent evidence, not incompetent evidence. Hay v. Schwartz, 982 S.W. 2d 295, 303 (Mo. App. 1998). Stated

¹ During the course of the Hearing, Laclede, the Staff, OPC, UE and all the other active Intervenor reached a negotiated settlement as to cost of service and rate design issues. In addition, Laclede, OPC and the Staff reached a negotiated settlement as to a variety of issues including weather, HVAC and certain accounting orders. The parties and Intervenor submitted to the Commission a First Amended Partial Stipulation and Agreement that memorialized those negotiations.

differently, "substantial evidence" is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Hajek v. Shalala, 30 F. 3d 89, 92 (8th Cir. 1994). As set forth more fully below, the Staff's conclusions and recommendations as to service territory descriptions and net salvage depreciation fail to fulfill these standards and are not supported by competent evidence. Accordingly, the Commission should reject such recommendations in their entirety.

III. ARGUMENT

A. Service Area Descriptions

Staff witness James Gray seeks to "reduce confusion" as to the boundaries of adjoining utilities. The method chosen by the Staff, however, will not reduce boundary confusion. Instead, it will increase the administrative and legal burden on the utility to define and interpret the scope of authority resulting from Certificates of Convenience and Necessity issued long ago by the Commission. Service areas in which no customer is being served, but where the potential for future service may occur, will need to be designated in a manner comprehensible only to a real estate professional or a county assessor. The public will not benefit. The Staff's proposed service territory descriptions are illogical and will serve no beneficial purpose.

The Staff considers Laclede's description of its service areas in its tariff sheets to be "poor" and seeks an order from the Commission compelling the revision of such sheets to include the following:

The tariff's service area descriptions should list all communities served by Company Division or Missouri County. *For unincorporated areas*, including any rural farm tap, its authorized service areas for each Missouri county should be *defined by township, section and range numbers* as depicted on schedules 9-1 and 9-2.

(Ex. 69, pp. 24-25)²

The Staff concedes that such a requirement is not mandated by Commission rules (Tr. p. 1007). Rather, the Staff believes that such information would be "helpful". Instead of being "helpful", the proposal is unnecessary, ill conceived and burdensome.

Staff witness Gray -- who was unable to identify his own township, section, and range number (Tr. p. 994) -- offered two consumer related and three utility related justifications for the Staff's proposal:

1. Safety related issues. If a person notices a gas leak in a neighborhood, that person might not know to which utility to report the gas leak;
2. Rate confusion. Neighbors might have different rates for natural gas. This can create confusion to customers regarding rate increases and decreases. That may in turn require additional involvement by the governmental entities involved;
3. Construction crews for the city and developers should be able to contact the proper utility for location of facilities (underground, etc.), which could reduce hazards related to construction; and;
4. The utilities need to plan their facilities for the future. It may reduce future duplication of facilities and allow both natural gas suppliers to plan their distribution systems in a reasonable and cost-effective manner, knowing that all new customers in the designated areas will be served by one supplier.
5. As population growth causes utility boundaries to encroach upon one another, each utility cannot be sure that its investment in facilities will be secure. This inhibits planning for future growth. To insure an orderly, well-planned environment, utility boundaries should be reasonably defined. It may also reduce future territorial disputes. (Gray, Rebuttal in Case Nos. GA-99-107 and GA-99-236, page 16, line 22 to page 17, line 14)
(Ex. 69, p. 23)

² Citations to the record will be abbreviated as follows: "Ex." for Exhibit, "Tr" for Transcript.

None of the foregoing “rationales” are based in fact or reason and invariably were refuted during cross-examination. Time and again Mr. Gray conceded at the hearing that the proffered rationales were “speculative” or mere “possibilities”. (Tr. pp 996, 1002, 1003, 1004, 1010, 1011). Mr. Gray acknowledged that the average residential customer is unaware of his township, section or range number. Mr. Gray’s testimony was equally vague as to the value of such information would be to a real estate developer. (Tr. pp. 1003- 1004).

Tariff sheets are filed with the Commission in Jefferson City and retained by the sponsoring utility. They are not typically distributed to customers. A customer receives a monthly bill from their utility provider and would direct safety questions or billing concerns to that provider. The customer would not consult a tariff sheet. In short, there are no safety considerations or legitimate consumer-related reasons justifying the Staff’s proposal.

No one disputes that underground hazards associated with buried gas lines should be minimized during construction. Tariff sheets are wholly irrelevant to such potential hazards. Moreover, construction crews do not carry tariff books on their backhoes. If a gas line were struck, a crew would contact One Call or 911, not the Staff to review a tariff sheet to determine the identity of the proper utility.

Lastly, utilities are in a better position to know what information would be “helpful” in planning future facilities. (Tr. p. 1001). Both UE and Laclede have expressed in no uncertain terms whether tariff revisions on this issue would be of value.

Indeed, rather than being helpful, adding township, section and range numbers to a tariff sheet imposes an unnecessary burden on the utility to research, generate and

produce information that is largely incomprehensible to the consumer. UE witness Phillip Difani described the Company's experience with its electric utility tariffs:

Q. Has it caused any administrative burdens for Union Electric Company?

A. It has caused very large administrative burdens. First of all, just trying to change from a simple map that - - that my son who is a Boy Scout can read, to - - to this description that even I don't fully understand, and I helped write the tariffs.

In our - - and what we do to prepare this sort of tariff is we have to have our district engineer who has - - who knows the area, he'll use a street map, more or less, a highway map, and then that will be turned over to somebody who understands this type of description which is in our real estate division. And they will produce some maps that have the township, range, sections, all of that kind of stuff and that information will be transferred over into that. And then we will try to decide, you know, if this line on the map really coincides with what part of this section, and if it includes any part of this section at all, throw it into our tariff and then we prepare those tariffs and we send them down here to the Staff to have them look them over, and there might be some disagreement, there might not. They might fully agree.

Then we prepare illustrative tariffs, send them down to the Commission. Those are looked at, possibly modified, and then sent back where we reissue the tariffs. Whenever we have done that for several territory changes, say, in our electric business, which has happened, I think that each - - any territory change that we make has been negotiated with the neighborhood coop, it probably consumes over 60, maybe 100 or so hours of our time just to prepare the tariff in this format from that.

(Tr. pp. 981- 983).

It would be far simpler and considerably more helpful to do as suggested by Mr. Difani and create a map which physically depicts the general contours of a utility's service territory. (Tr. p. 989). It is only the contours of a utility's service area which are

of informational importance, not detailed descriptions of the interior portions of its service area.

It is certainly true that the issue of service area confusion arose in a recent dispute between Union Electric Company and Laclede Gas Company (Case No. GA-99-107 and GA-99-236). At issue in that dispute was the appropriate legal construction to be given to Certificates of Convenience and Necessity issued over thirty years ago by the Commission to Laclede and UE. The Certificates overlapped and, all parties conceded, were ambiguous. The ambiguity in those Certificates became apparent as the population in unincorporated St. Charles County (Laclede's service territory) grew and as the City of Wentzville (UE's service territory) incorporated additional territory. The dispute did not arise over the appropriate interpretation to be given either utility's tariff sheets. Rather, the ambiguity arose from the Certificates themselves, not the tariff sheets. Accordingly, township, section and range number descriptions in the respective parties' tariff sheets would not have resolved or even avoided the resulting legal dispute.

The Commission, the Staff and the regulated utilities' time, energy and resources are better spent on resolving actual disputes and controversies and not on needless tasks which serve no real purpose. The Commission should reject the Staff's proposal on this issue.

B. Depreciation

Staff witness Paul Adam has proposed a method of calculating net salvage in this matter that departs dramatically and unconventionally from generally accepted utility accounting principles. Mr. Adam asserts that the "net salvage component of the Depreciation Rate equation should recover the current actual net salvage amounts, not an

average over the total life of the current plant.” Mr. Adam, who considers himself more of a technician than a theorist, created the proposed methodology. (Tr. p. 898). It runs counter to long-standing depreciation principles. (Tr. p. 838).

Laclede’s expert witness, Dr. Ronald E. White, articulated the flaws in the Staff’s methodology as follows:

The treatment of net salvage advocated by Staff reduces to a recommendation to the Commission to abandon accrual accounting for net salvage and to institute a policy of allowing no more than the annual average of the net salvage realized over a recent band of years as the currently recoverable revenue requirement for salvage and cost of removal. This, in my experience, is without precedence both in theory and in practice. *The proposal violates generally accepted accounting principles and would shift the expense recognition and recovery of net salvage to accounting periods beyond which the service capacity of the related assets had been consumed. I firmly believe, however, that responsible regulation would not knowingly abandon a universally accepted accounting practice and sanction a new depreciation formula designed with no other objective than to shift current costs to future accounting periods.*

(Ex. 20, p. 13)

UE joins and incorporates by reference the arguments set forth in Laclede’s Initial Brief and urges the Commission to reject the methodology proposed by the Staff in calculating net salvage.

IV. CONCLUSION

For all the reasons set forth herein and in Laclede's Initial Brief, the Commission should (a) reject the Staff's proposal to amend Laclede's tariff sheets to include a service area description based upon township, section, and range numbers and (b) reject the methodology proposed by Staff witness Paul Adam relating to net salvage depreciation.

Respectfully submitted
UNION ELECTRIC COMPANY
d/b/a AmerenUE

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Initial Brief of Union Electric Company in Missouri Public Service Commission Case No. GR-99-315, have been sent via first class, U.S. mail on October 14, 1999.

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