

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

In the Matter of Union Electric Company d/b/a)	
AmerenUE for Authority to File Tariffs)	
Increasing Rates for Electric Service Provided)	<u>Case No. ER-2008-0318</u>
to Customers in the Company's Missouri)	Tariff No. YE-2008-0605
Service Area.)	

**RESPONSE OF PUBLIC COUNSEL TO ORDER ESTABLISHING TIME
TO RESPOND TO MOTION FOR RECONSIDERATION**

COMES NOW the Office of the Public Counsel and for its response to Order Establishing Time To Respond To Motion for Reconsideration states as follows:

1. On April 17, 2008, Union Electric Company, d/b/a AmerenUE filed a motion for reconsideration of the Commission's April 7 Order Directing Notice, suspending Tariff, Setting Hearings, And Directing Filings. Among other requests, AmerenUE asks that:

formal dates for the evidentiary hearing that were previously set by the Suspension Order be **un-set** and that evidentiary hearing dates **not be re-set** until after a proposed procedural schedule has been filed.

...

[and that] the Commission **vacate** that part of the Suspension Order that sets dates for the evidentiary hearing. Moreover, the Company requests the Commission to reserve, **but not set**, the first three weeks of December (December 1 through 23) as possible dates for evidentiary hearings in this case.... [emphasis added.]

2. Public Counsel strongly opposes this portion of AmerenUE's request. Whether or not it is intended, granting this request would arguably¹ open the door for AmerenUE representatives to meet in private with Commissioners with no notice and no disclosure to parties. Given the magnitude of the rate increase request, such a result would clearly be harmful to the public interest.

¹ Section 386.210 RSMo Cum. Supp. 2007 does not mention whether parties can discuss issues in a case with Commissioners after a hearing has been set but is later "unset." It simply refers to a "case in which no evidentiary hearing has been scheduled." The impact of setting a hearing and then unsetting it is not entirely clear, although AmerenUE's request to have the Commission "vacate" the order scheduling a hearing would appear to restore the case to one in which "no evidentiary hearing has been scheduled."

3. The Commission has in recent years made it a practice to set evidentiary hearings in rate cases shortly after they are filed. This practice not only allows the commission to manage its calendar more efficiently, but it also has the effect of cutting off any utility lobbying of Commissioners with respect to rate case issues. “Un-setting” the hearing as AmerenUE requests would arguably allow, pursuant to Section 386.210, private undisclosed meetings between utility representatives and Commissioners to talk about rate case issues.

4. If the Commission agrees that the beginning of December is a better time for evidentiary hearings than the time currently scheduled, it should **set** the hearings for that time. At no point should this case revert to one in which no evidentiary hearing has been scheduled.

5. Public Counsel does not oppose: (a) rescheduling the hearings for the first three weeks of December (December 1 through 23); (b) rescheduling the Early Prehearing Conference from May 27, 2008 to May 12, 2008; (c) rescheduling the deadline for recommending a test year/update period to May 14, 2008; and (d) rescheduling the deadline for recommending a procedural schedule and local public hearing dates from June 3, 2008 to May 19, 2008.

WHEREFORE Public Counsel respectfully requests that the Commission: (a) not vacate the portion of its April 7, 2007 order that set evidentiary hearing dates, but rather simply reschedule the evidentiary hearing for December 1-23, 2008; (b) reschedule the Early Prehearing Conference from May 27, 2008 to May 12, 2008; (c) reschedule the deadline for recommending a test year/update period to May 14, 2008; and (d) reschedule the deadline for recommending a procedural schedule and local public hearing dates from June 3, 2008 to May 19, 2008.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all parties this 23rd day of April 2008.

By: _____