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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 6th
day of June, 2000.

In the Matter of Union Electric Company's)
Tariff Sheets to Revise Rates for) Case No. ET-2000-666
Interruptible Customers of Union Electric) Tariff No. 200000913
Company)

ORDER DENYING APPLICATION FOR RECONSIDERATION, REHEARING AND
FOR ORAL ARGUMENT AND DENYING MOTION FOR IMMEDIATE STAY,
SUSPENSION OF TARIFF AND FOR ORAL ARGUMENT

On April 27, 2000, the Commission issued an Order Denying Motion to Suspend Tariff, Denying Motion to Consolidate and Approving Tariff. The April 27th order denied a motion filed by Holnam, Inc., Lone Star Industries, Inc., and River Cement Company (MEG Interruptibles) that asked the Commission to suspend a tariff proposed by Union Electric Company d/b/a AmerenUE (AmerenUE). That order provided that it, and AmerenUE's tariff, would become effective on May 6. On May 4, MEG Interruptibles timely filed an Application for Reconsideration, Rehearing and for Oral Argument. On the same date, MEG Interruptibles filed a Motion for Immediate Stay, Suspension of Tariff and for Oral Argument. No party has filed a response to MEG Interruptibles' application or motion.

The Application for Rehearing and Reconsideration and the Motion for Immediate Stay and Suspension of Tariff urges the Commission to

reconsider its decision to not suspend AmerenUE's tariff, which establishes a new Rider M that would "provide the Company's primary service rate customers the opportunity, at their option, to grant the Company the right to call for curtailment of a portion of such customers' electrical usage based upon a number of curtailment options selected by each individual customer and contracted for with the Company." In its order denying MEG Interruptibles' request to suspend that tariff, the Commission concluded that there was no reason to suspend AmerenUE's tariff.

MEG Interruptibles' Application for Reconsideration and Rehearing asserts that it was denied its due process rights by the Commission's decision to deny MEG Interruptibles' motion to suspend AmerenUE's tariff without first conducting a full evidentiary hearing. This argument is not persuasive. The Missouri Supreme Court has held that customers of a utility do not have a property interest in any existing utility rate that would be protected by the due process rights found in the 5th and 14th amendments to the United States Constitution and thus are not entitled to a due process hearing prior to a determination of the lawfulness of a proposed rate. State ex rel. Jackson Cty. v. Pub. Serv. Com'n., 532 S.W.2d 20 (Mo. banc 1975). Indeed, when considering a tariff filed by a utility, the Commission can, simply by not taking any action, permit a requested rate to go into effect. Therefore, the determination of whether or not to suspend a tariff necessarily rests in the sound discretion of the Commission. State ex rel. Laclede Gas Co. v. P.S.C., 535 S.W.2d 561 (Mo. App. 1976). There is nothing in the law that

requires the Commission to conduct a hearing before deciding not to suspend a tariff.

The remainder of MEG Interruptibles' application for reconsideration and rehearing and motion for immediate stay consists of arguments about why AmerenUE's tariff is allegedly damaging to the interests of MEG Interruptibles. The Commission already considered and rejected those arguments in its Order Denying Motion to Suspend Tariff, Denying Motion to Consolidate and Approving Tariff. Section 386.500, RSMo 1994, provides that the Commission shall grant an application for rehearing if "in its judgment sufficient reason therefor be made to appear." MEG Interruptibles has, in the judgment of the Commission, failed to establish sufficient reason to grant its Application for Reconsideration and Rehearing and its Motion for Immediate Stay and Suspension of Tariff.

IT IS THEREFORE ORDERED:

1. That the Application of MEG Interruptibles for Reconsideration, Rehearing and for Oral Argument filed by Holnam Inc., Lone Star Industries Inc. and River Cement Company is denied.

2. That the Motion for Immediate Stay, Suspension of Tariff and for Oral Argument filed by Holnam Inc., Lone Star Industries Inc. and River Cement Company is denied.

3. That this order shall become effective on June 6, 2000.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Drainer, Murray,
Schemenauer, and Simmons, CC., concur

Woodruff, Regulatory Law Judge

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION