

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY**

July 27, 2000

CASE NO: EO-2000-580

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Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts

Secretary/Chief Regulatory Law Judge

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 27th
day of July, 2000.

In the Matter of an Investigation into an)
Alternative Rate Option for Interruptible) Case No. EO-2000-580
Customers of Union Electric Company d/b/a)
d/b/a AmerenUE.)

ORDER DENYING MOTION FOR ORAL ARGUMENT
AND ESTABLISHING PROCEDURAL SCHEDULE

On March 20, 2000, Holnam, Inc., Lone Star Industries, Inc., and River Cement Company (Applicants) filed a pleading requesting that the Commission establish a case to investigate the establishment of an additional alternative rate option for interruptible customers of Union Electric Company d/b/a AmerenUE (AmerenUE). On July 5, 2000, Applicants filed pleadings requesting that the Commission establish an expedited procedural schedule and schedule oral argument. Although Applicants argue that time is of the essence, they concede that it will not be possible to implement a new tariff for use during the summer curtailment period this year.

On July 14, 2000, the Staff of the Commission filed a response in opposition to Applicants' July 5, 2000, requests. Staff notes that the Commission, in its order of May 18, 2000, did not explicitly reject Applicants' request to reinstate (with minor modifications) the old Interruptible Power Rate on an interim basis. Although that was the

Commission's intent, Staff is correct that the May 18, 2000, order did not explicitly reject the Applicants' request. The Commission will not order AmerenUE to implement another curtailment tariff without an evidentiary record to establish the need for one. The Commission will explicitly deny Applicants' request for interim relief.

Staff also argues against Applicants' requests for oral argument and for the establishment of an expedited procedural schedule. Staff states that neither oral argument nor the schedule proposed by Applicants will allow a new tariff to be in effect this summer. Staff also asserts that establishing the interim tariff proposed by Applicants would negate a key term of a Stipulation and Agreement in Case No. EO-96-15 and that establishing the interim tariff would benefit only Applicants and would have corresponding detriment to AmerenUE and its other customers¹.

Staff proposes a procedural schedule that allows all parties adequate time to address the issues; in a pleading filed on July 14, 2000, AmerenUE supports Staff's proposed schedule.

Also in its July 14, 2000, pleading, AmerenUE opposes the requests of Applicants. AmerenUE's position and its arguments are similar to those of the Staff. The Commission finds that Staff's and AmerenUE's points are well taken.

Although the Commission generally is not opposed to allowing parties the opportunity for oral argument, in this case the issues appear to be largely factual rather than legal, and will best be developed through

¹ The Commission need not address these assertions to resolve the procedural questions herein. Staff can develop it in its testimony.

testimony and a hearing. Under any expedited procedural schedule (including the one proposed by Applicants), it would be impossible to allow parties due process and implement a new tariff for use during the summer curtailment period this year. Accordingly, the Commission will adopt the procedural schedule proposed by Staff since it allows ample time to develop the evidentiary record the Commission will need to resolve this case. The following conditions will be applied to the procedural schedule:

(A) The Commission will require the prefiling of testimony as defined in 4 CSR 240-2.130. All parties shall comply with this rule, including the requirement that testimony be filed on line-numbered pages. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays caused by allegations of unfair surprise at the hearing.

(B) Pursuant to 4 CSR 240-2.130(15), testimony and schedules shall not be filed under seal and treated as proprietary or highly confidential unless the Commission has first established a protective order. Any testimony or schedule filed without a protective order first being established shall be considered public information.

(C) The parties shall agree upon and the Staff shall file a list of the issues to be heard, the witnesses to appear on each day of the hearing and the order in which they shall be called, and the order of cross-examination for each witness. Any issue not contained in this list of issues will be viewed as uncontested and not requiring resolution by the Commission.

(D) Each party shall file a statement of its position on each disputed issue. Such statement shall be simple and concise, and shall not contain argument about why the party believes its position to be the correct one.

(E) The Commission's general policy provides for the filing of the transcript within two weeks after the hearing. If any party seeks to expedite the filing of the transcript, such request shall be tendered in writing to the regulatory law judge at least five days prior to the date of the hearing.

(F) All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080. Briefs shall follow the same list of issues as filed in the case and shall set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.

(G) All parties are required to bring an adequate number of copies of exhibits which they intend to offer into evidence at the hearing. If an exhibit has been prefiled, only three copies of the exhibit are necessary for the court reporter. If an exhibit has not been prefiled, the party offering it should bring, in addition to the three copies for the court reporter, copies for the five Commissioners, the regulatory law judge, and all counsel.

IT IS THEREFORE ORDERED:

1. That the motion for oral argument filed by Holnam, Inc., Lone Star Industries, Inc., and River Cement Company on July 5, 2000, is denied.

2. That the motion for expedited schedule of proceedings filed by Holnam, Inc., Lone Star Industries, Inc., and River Cement Company on July 5, 2000, is denied.

3. That the motion for approval of an interim alternative interruptible rate filed by Holnam, Inc., Lone Star Industries, Inc., and River Cement Company on March 20, 2000, is denied.

4. That the following procedural schedule is established for this case:

Direct testimony of Applicants	July 31, 2000 3:00 P.M.
Rebuttal testimony of all parties	September 14, 2000 3:00 P.M.
List of issues, order of witnesses, order of cross	September 28, 2000 3:00 P.M.
Surrebuttal and cross-surrebuttal	October 5, 2000 3:00 P.M.
All parties' position statements	October 11, 2000 3:00 P.M.
Evidentiary hearing	October 19-20, 2000 9:00 A.M.

The hearing will be held in the Commission's office in Jefferson City, Missouri. This hearing will be held in a building that meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this public hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or 1-800-829-7541 (TDD) prior to the hearing.

5. That this order shall become effective on August 8, 2000.

BY THE COMMISSION

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

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

Mills, Deputy Chief Regulatory Law Judge

Alt/Sec'y: Mills (Hopkins) Boyce
Date Circulated 7-24 CASE NO. 20-2000-580
Robert
Lumpke, Chair
Robert
Draimer, Vice Chair
Robert
Murray, Commissioner
AS
Schemenauer, Commissioner
KS
Simmons, Commissioner
7-27
Agenda Date
Action taken: 3:00 AS
Must Vote Not Later Than _____

STATE OF MISSOURI
OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 27th day of July 2000.

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

