

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the matter of Union Electric Company)
d/b/a AmerenUE's Tariffs to Increase its) File No. ER-2011-0028
Annual Revenues for Electric Service.)

RESPONSE OF THE MUNICIPAL GROUP
TO UNION ELECTRIC'S MOTION TO STRIKE OR OTHERWISE DISALLOW
PORTIONS OF THE PREPARED DIRECT, REBUTTAL AND SURREBUTTAL
TESTIMONIES OF PETREE A. EASTMAN

COMES NOW The Municipal Group¹ and for its response to Union Electric's *Motion to Strike or Otherwise Disallow Portions of the Prepared Direct, Rebuttal and Surrebuttal Testimony of Petree A. Eastman and Motion for Expedited Treatment* states as follows:

1. On April 22, 2011, Union Electric filed its Motion to Strike portions of Petree A. Eastman's direct, rebuttal and surrebuttal testimonies.
2. On April 22, 2011, the Missouri Public Service Commission (Commission) ordered The Municipal Group to respond no later than April 28, 2011.
3. Union Electric's Motion to Strike claims that "Ms. Eastman does not meet the minimum legal requirements for an 'expert witness'" ...and that "...consequently she is incompetent, as a matter of law, to provide evidence in this case that consists of testimony regarding her opinions and conclusions. (Union Electric's Motion to Strike, page 1).
4. Ms. Eastman filed Direct Testimony (Exhibit 750) on February 10, 2011, Rebuttal Testimony (Exhibit 751) on March 25, 2011 and Surrebuttal Testimony (Exhibit 752) on April 15, 2011.
5. Ms. Eastman's education and work experience are as follows:
 - a) BA from Webster University;

¹ City of O'Fallon, the City of Creve Coeur, the City of University City, the City of Olivette, the City of St. Ann, the City of Kirkwood, the City of Bellefontaine Neighbors, the City of Florissant, the City of Richmond Heights, the Village of Twin Oaks, the City of Ballwin, the City of Brentwood, the Village of Riverview, the City of St. John, the City of Sunset Hills and the St. Louis County Municipal League (collectively "The Municipal Group")

- b) JD from St. Louis University;
- c) Masters Degree in City Planning from the University of California-Berkeley; and
- d) Assistant City Manager for the City of University City, Missouri.

6. Ms. Eastman also filed testimony on union Electric's Street lighting tariffs for The Municipal Group in Union Electric's most recent rate case, ER-2010-0036. Ms. Eastman's testimony was admitted into the record and she underwent cross-examination.

7. Ms. Eastman has performed street lighting analysis of Union Electric's 5M and 6M tariff rates for the City of University City, for the St. Louis County Municipal League and for each of the Cities in The Municipal Group.

8. Union Electric's Motion to Strike cites Section 490.065.1 RSMo. which states, in essence, that only persons who are qualified based on their "knowledge, skill, experience, training or education" may testify "in the form of an opinion or otherwise" in any legal proceeding within the State of Missouri.

9. However, Union Electric's Motion to Strike overlooks the Commission's unique statutory authority in Section 386.410 RSMo. regarding the admissibility of evidence:

- "1) All hearings before the commission or a commissioner shall be governed by rules to be adopted and prescribed by the commission. And in all investigations, inquiries or hearings the commission or commissioner shall not be bound by the technical rules of evidence.**
- 2) No formality in any proceeding nor in the manner of taking testimony before the commission or any commissioner shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission."**

10. Missouri case law upholds the Commission's broad discretion in receiving and relying on witnesses and evidence. *See: Deaconess Manor Ass'n v. PSC of Mo.*, 994 SW2d 602 (Mo. WD); *State ex.rel. Potoshnick Truck Service v. PSC of Mo.*, 129 SW2d 69 (App.1939); *State ex.rel. Rice v. PSC*, 220 SW2d 61 (Mo. Sup. 1949).

11. Ms. Eastman is well qualified by her education and work experience as Assistant City Manager and consultant to the Cities in The Municipal Group to give her observations and opinions on Union Electric's municipal street lighting tariffs.

WHEREFORE, The Municipal Group respectfully requests the Commission deny Union Electric's Motion to Strike.

Respectfully Submitted,

CURTIS, HEINZ,
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CERTIFICATE OF SERVICE

A true and correct copy of the foregoing documents was either faxed, emailed, or mailed persons listed on the attached list on the 28th day of April, 2011.

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