

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

In the Matter of Union Electric Company d/b/a)
AmerenUE’s Tariffs to Increase Its Annual) Case No. ER-2008-0318
Revenues for Electric Service.)

**RESPONSE OF AMERENUE TO THE INTERVENTION
REQUEST OF GEORGE R. GHOLSTON, JR.**

COMES NOW Union Electric Company d/b/a AmerenUE (AmerenUE) and in response to the letter filed in this proceeding on April 19, 2008 by George R. Gholston, Jr., requesting authorization to “intervene and participate in the rate hearings” in this case, states as follows:

1. On April 4, 2008 AmerenUE initiated this proceeding by filing tariffs designed to implement a general rate increase for electric service. On April 7, 2008 the Missouri Public Service Commission (Commission) issued its Order Directing Notice, Setting Hearings, and Directing Filings (Order). In its Order, the Commission stated that it would allow “proper persons” to intervene by filing an application within 20 days from the issuance date of the Order. Order, p. 3.

2. On April 19, 2008, Mr. Gholston filed a one-sentence letter requesting authorization to intervene and participate in the rate hearings in this proceeding. AmerenUE opposes granting Mr. Gholston’s intervention request. The Commission’s rules contain standards for granting interventions in Commission proceedings. Among other things, they require an applicant for intervention to show either (a) that he has an interest which is different from that of the general public and which may be adversely affected by a final order arising from the case, or (b) that granting the intervention would serve the public

interest. 4 CSR 240-2.075(4). Mr. Gholston has made neither of these showings, and therefore his intervention request should be denied.

3. The courts in Missouri have long held that individual residential customers of utilities do not have an interest which is different from that of the general public and which would justify the granting of their intervention in Commission cases. *See State ex rel. Consumers Public Service Co. v. Public Service Commission*, 180 S.W.2d 40 (Mo. banc 1944); *R. P. Smith and J. Hugh Smith v. Public Service Commission*, 336 S.W.2d 491 (Mo. 1960); and *State ex rel. Dyer v. Public Service Commission*, 341 S.W.2d 795 (Mo. 1960). In addition, the case law makes it clear that Missouri law does not contemplate that every citizen may participate in a hearing before the Commission because, as a practical matter, that would prevent the efficient administration of justice. *R. P. Smith and J. Hugh Smith, supra* at 494. For this reason, allowing intervention of individuals in Commission proceedings would not serve the public interest.

4. Although the Commission retains broad discretion to grant intervention, at least in the years since the Office of the Public Counsel (OPC) was created, the Commission has generally not permitted intervention in Commission cases by individual members of the public. This makes sense and is directly in accord with the Legislature's intent when it created OPC, which is specifically empowered to "represent. . . the public in any proceeding." Mr. Gholston should be encouraged to participate in this proceeding through OPC. He should be encouraged to provide any testimony or materials he would like at any of the local public hearings that will be scheduled.¹ But his interest in this case is not

¹ Mr. Gholston exercised this right in the Company's last general rate proceeding, Case No. ER-2007-0002, by appearing and testifying at two different Local Public Hearings (on January 2, 2007 and again on February 5, 2007), and by submitting an exhibit to the Commission (marked Exhibit 1 at the January 2, 2007 Local Public Hearing).

different from that of the general public, and opening the door to the intervention of individual members of the public in Commission proceedings, whose interests are already represented by OPC, is not in the public interest. As a consequence, Mr. Gholston's request to intervene in this proceeding should be denied.

WHEREFORE AmerenUE respectfully requests that the Commission issue an order denying Mr. Gholston's request to intervene in this proceeding.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on the attached service list, by first class mail, postage prepaid, or by electronic mail, on this 30th day of April, 2008.

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