

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
September 1, 2000**

CASE NO: GR-2000-512

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

Sincerely,

A handwritten signature in black ink, appearing to read "Dale Hardy Roberts". The signature is written in a cursive, flowing style.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

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)	<u>Case No. GR-2000-512</u>
Tariffs Increasing Rates for Gas Service)	<u>Tariff No. 200000747</u>
Provided to Customers in the Company's)	
Missouri Service Area.)	

ORDER GRANTING APPLICATION TO INTERVENE OUT OF TIME

On February 18, 2000, Union Electric Company d/b/a AmerenUE (Company) submitted to the Missouri Public Service Commission (Commission) tariffs reflecting increased rates for natural gas service provided to customers in the Missouri service area of the Company. The proposed tariffs were assigned tariff number 200000747 and bear a requested effective date of April 2, 2000.

On March 3, 2000, the Commission entered its order which, *inter alia*, suspended the effective date of AmerenUE's tariff until January 27, 2001, and ordered that anyone wishing to intervene should do so by March 23, 2000.

On August 8, 2000, Missouri Department of Natural Resources (MDNR) filed its direct testimony along with two pleadings: its application to intervene (application) and its motion to file its application to intervene late (motion); both pleadings were filed pursuant to Commission Rule 4 CSR 240-2.075. No party filed a response to MDNR's filing.

The application will be discussed first.

MDNR stated that it is a division of a state agency vested with the powers and duties set forth in Section 640.150, RSMo¹. MDNR stated that it has both an interest different than that of the general public, and its intervention will serve a public interest in that MDNR will be examining the proposed tariffs from a formal policy and planning perspective as well as looking at the potential impacts on environmental quality. In particular, stated MDNR, it will examine the proposed tariffs to assess the commitment by AmerenUE to provide low- or no-cost weatherization to low-income families.

MDNR stated that its examination will also be in relation to the mandate set forth in Section 640.150, RSMo. MDNR stated that the mandate set forth in the statute includes planning for energy resource development; analyzing energy management issues; consulting and cooperating with all state and federal governmental agencies on matters of energy research and development, management, conservation and distribution; assessing the potential impacts on environmental quality; and analyzing the potential for increased use of energy alternatives and making recommendations for the expanded use of such alternate energy sources and technologies.

MDNR stated that it has not come to any conclusion as to whether it supports or opposes the proposed tariffs at the time of its filing, nor has it come to any conclusion whether it supports AmerenUE's true-up recommendation, or will be suggesting an alternative.

The motion will be discussed next.

In its motion, MDNR stated that the United States Congress recently amended the statute governing the Department of Energy's Weatherization Assistance Program by requiring that, beginning in fiscal year 2001 and

¹ All references herein to sections of the Revised Statutes of Missouri (RSMo), unless otherwise specified, are to the revision of 1994.

thereafter, sums appropriated for weatherization assistance grants be contingent on a cost share of 25 percent by each participating state. Without these cost share funds, MDNR alleges, Missouri will lose its current annual federal allocation of approximately \$3.5 million. MDNR stated that it hopes to use a state appropriation for weatherization in each of the past two state budget periods from the Utilicare Fund administered by the Department of Social Services as a portion of this match. However, MDNR contends, these funds alone would not be sufficient to provide the full 25 percent cost-share. According to MDNR, there is also no guarantee that state funds will continue to be appropriated for weatherization purposes beyond fiscal year 2001, as these funds must be approved by the General Assembly through the annual budget appropriation process and approved by the Governor for each fiscal year. Further, continued MDNR, these funds are also in competition with the demand for fuel payment assistance that fluctuates depending on whether the winter is mild or cold.

MDNR stated that the 25 percent cost share may also be with non-federal leveraged resources from energy suppliers or other sources through negotiation, regulation or voluntary contributions. Funds from energy providers for weatherization services in Missouri, such as the AmerenUE Experimental Weatherization Program, would contribute not only to meeting the new cost share requirement, but also the need for these services in Missouri, according to MDNR.

There are three issues to decide:

- (1) Is MDNR a proposed intervenor which falls under Commission Rule 4 CSR 240-2.075(4)(A), i.e., a proposed intervenor having an interest in the proceeding which is different from that of the general public?

MDNR argued persuasively that, as a state agency, it has an interest different from that of the general public. The Commission finds that MDNR has a interest which is different from that of the general public because of MDNR's status as a state agency.

- (2) Has MDNR shown good cause why it filed its motion to intervene out of time pursuant to Commission Rule 4 CSR 240-2.075(4)(D), which requires that "[a]pplications to intervene filed after the intervention date set by the commission may be granted upon a showing of good cause"?

MDNR admitted that it knew that the deadline for intervention was March 23, 2000. MDNR continued that the MDNR staff member who has responsibility for tracking matters before the Commission in which MDNR may have an interest and may choose to intervene, had a stroke in early July 2000, and was consequently unable to learn of the above-styled rate case. MDNR does not explain how these two events precluded each other.

Furthermore, MDNR stated, due to a lack of certainty concerning the staff member's condition and time of return to work, MDNR has not sought to replace the staff member. MDNR does not explain how this "lack of certainty" caused it to late-file a pleading.

MDNR also failed to explain how a deadline in late March can rationally be said to have been missed by an employee who fell ill in early July.

Nonetheless, the Commission finds that good cause exists to allow MDNR's intervention.

- (3) Would granting MDNR intervention serve the public interest?

Commission Rule 4 CSR 240-2.075(4)(C) states in part: "The [public service] commission may permit intervention on a showing that...[g]ranting the proposed intervention would serve the public interest...." MDNR stated that it is in the special position of representing interests which will not

and cannot be represented adequately by any other party and which interest is direct and immediate and different than those of the general public. Therefore, MDNR stated, it would aid the Commission and protect the public interest if MDNR were allowed to intervene. The Commission finds that granting MDNR intervention would serve the public interest.

In conclusion, the Commission has reviewed the application to intervene late-filed by MDNR and finds that it is in substantial compliance with Commission Rules 4 CSR 240-2.075(4)(C) and (D). Consequently, the Commission will grant MDNR's motion to late file its application for intervention and also grant its motion for intervention. The Commission recognizes that no significant action has occurred in this case, so that the granting of this intervention would not disrupt, delay or impede the progress of the case. The Commission also finds that granting MDNR intervention will not work any prejudice to any party.

IT IS THEREFORE ORDERED:

1. That the application to intervene late filed by the Missouri Department of Natural Resources is granted on a finding of good cause why its application to intervene was not timely filed and a finding that granting the applicant's application to intervene would serve the public interest.

2. That this order shall become effective on September 11, 2000.

BY THE COMMISSION

(S E A L)



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Bill Hopkins, Senior Regulatory Law
Judge, by delegation of authority
pursuant to Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 1st day of September, 2000.

**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 1st day of September 2000.**

Dale Hardy Roberts

**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

