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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 15th  
day of June, 1999.

|                             |   |                           |
|-----------------------------|---|---------------------------|
| Missouri Coalition for Fair | ) |                           |
| Competition,                | ) |                           |
|                             | ) |                           |
| Petitioner,                 | ) |                           |
|                             | ) |                           |
| v.                          | ) | <u>Case No. EC-99-327</u> |
|                             | ) |                           |
| AmerenUE,                   | ) |                           |
|                             | ) |                           |
| Respondent.                 | ) |                           |

**ORDER APPROVING STIPULATION AND AGREEMENT**  
**AND CLOSING CASE**

The Missouri Coalition for Fair Competition, Petitioner, filed its formal complaint on February 3, 1999, seeking the imposition of monetary penalties on Respondent Union Electric Company, doing business as AmerenUE (UE), pursuant to Section 386.756, RSMo Supp. 1998. On February 4, 1999, this Commission issued its Notice of Complaint. On March 8, 1999, UE filed its Answer. On March 16, 1999, the Commission by order set a prehearing conference and required the filing of a proposed procedural schedule. The prehearing conference was held on March 26, 1999, and the proposed procedural schedule was filed on April 1, 1999. The proposed procedural schedule was established by order issued on April 13, 1999, with a correction order issued on April 14, 1999.

On May 28, 1999, the parties filed their Stipulation and Agreement disposing of all issues. Because, under the procedural schedule, direct testimony was due to be filed on June 1, 1999, the Commission issued its order suspending the procedural schedule while it considers the parties' Stipulation and Agreement. On June 3, 1999, Complainant moved to dismiss the Complaint and further moved the Commission to approve the Stipulation and Agreement of the parties and to impose no financial penalties on Respondent. On June 7, 1999, Staff filed its memorandum in support of the Stipulation and Agreement.

## **Discussion**

This matter arises out of a complaint filed against UE alleging violations of the "HVAC Act," Sections 386.754-386.764, RSMo Supp. 1998.<sup>1</sup> The HVAC Act places restrictions on public utilities with respect to the business of selling, installing, repairing, and maintaining heating, ventilating and air conditioning equipment. The Complainant herein, the Missouri Coalition for Fair Competition, is an association of independent heating, ventilating and air conditioning businesses. Under the parties' agreement, UE will stop the offending conduct and will not repeat it. Further, UE will not engage in HVAC-related services prior to December 31, 2001. In return, Complainant will seek the dismissal of this case and recommend that no fines be imposed upon UE. The parties agree that this is a satisfactory resolution of this matter.

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<sup>1</sup> "HVAC" stands for heating, ventilating and air conditioning.

## Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact:

In January 1999, subsequent to the effective date of the HVAC Act, UE caused to be mailed to one or more of its customers a monthly bill including a reference to the On-Call Appliance Plan in the customer bulletin section, as follows:

ON-CALL APPLIANCE PLAN - a low monthly payment covers the cost of repairing your furnace, air conditioner, and water heater. Optional coverages are also available for other home appliances. Call 1-888-ONCALL3 for more information about AmerenUE's On-Call Appliance Plan-offering fast, quality repairs and avoiding financial surprises when you can least afford them.

Sometime after November 1998, after the effective date of the HVAC Act, UE caused to be mailed or delivered to one or more persons a Hello, Neighbor! survey card, which included a reference to the On-Call Appliance Plan, as follows:

3. Would you like information on the AmerenUE On-Call Appliance Warranty plan that protects you from unexpected repair bills for your furnace, air conditioner, and other appliances?

Neither on the bill nor on the survey card was there a disclaimer indicating that the service in question is not subject to regulation by the Missouri Public Service Commission.

The bill and the survey card show that UE was engaged in heating, ventilating and air conditioning services in the state of Missouri. UE

was not engaged in such services on an emergency basis nor pursuant to an existing statute or rule or order of this Commission, and had not been engaged in such services for the next preceding five years.

### Conclusions of Law

The Missouri Public Service Commission has reached the following conclusions of law:

The Missouri Public Service Commission has "full authority to administer and ensure compliance with Sections 386.754 to 386.764," the HVAC Act.

Based on its findings of fact herein, the Commission determines that UE has violated Section 386.756, .1 and .3, RSMo Supp. 1998.

The Commission has the legal authority to accept a Stipulation and Agreement as offered by the parties as a resolution of the issues raised in this case, pursuant to Section 536.060, RSMo Supp. 1998. Based upon the Commission's review of the applicable law and the Stipulation and Agreement of the parties, the Commission concludes that the Stipulation and Agreement should be approved.

In the Stipulation and Agreement, the parties waived their rights to present testimony, cross-examine witnesses, present oral argument or briefs, and to seek rehearing or judicial review. The requirement for a hearing is met when the opportunity for hearing has been provided and no proper party has requested the opportunity to present evidence. State ex rel. Rex Deffenderfer Enterprises, Inc. v. Public Service Commission, 776 S.W.2d 494, 496 (Mo. App. 1989). Since no one has requested a

hearing in this case, the Commission may grant the relief requested based on the verified application.

**IT IS THEREFORE ORDERED:**

1. That the Stipulation and Agreement of the parties is approved.

2. That this order shall become effective on June 25, 1999.

3. That this case may be closed on June 28, 1999.

**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 )

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

Thompson, Deputy Chief Regulatory Law Judge

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JUN 15 1993

COMMISSION COUNSEL  
PUBLIC SERVICE COMMISSION