

**BEFORE THE PUBLIC SERVICE COMMISSION**

**STATE OF MISSOURI**

In the Matter of the Application of )  
Union Electric Company d/b/a AmerenUE )  
for an Order Authorizing the Sale and ) Case No. EO-2010-0263  
Transfer of Certain Assets of AmerenUE )  
to St. James Municipal Utilities )  
and Rolla Municipal Utilities. )

**MOTION TO RESPOND**

1. I am making this Motion to the Missouri Public Service Commission (the Mo PSC) as a Response to The City of Rolla's and The City of St. James' Motion to Deny my Application to Intervene filed on May 5, 2010. I respectfully state the following.
2. As far as my position on this transaction, until I am given the benefit of a copy of the RW Beck report, I can do nothing other than oppose this action.

3. I do not have a business affiliation listed in the Application to Intervene because I do not have one. Apparently classifying me as a “business” was the only mechanism permissible to give me access under the the EFIS system.
4. I categorically deny all derogatory characterizations of my motives, my past actions and my past educational and career history. Neither Rolla nor St. James can prove the validity of any action taken by Rolla, Rolla Municipal Utilities, or the City Council of Rolla, any more than they can possibly predict the verdict of a jury trial. Neither City can predict the future actions or motives of any person intervening in a case before the MoPSC, so I ask that the Commissioners do not accept into the record their attempts at character assassination. Since this is a public record, I would ask that the MoPSC Commissioners strike all references to the City Council Censure and the alleged assault.
5. I have a distinct interest in this issue as both a RMU customer and a Rolla citizen that differs from either that of the Missouri general public or the retail customers of AmerenUE. Even though I pay the same state taxes that fund the MoPSC, I am not being protected from poor utility business policies and rate abuses that are afforded to other Missouri citizens through MoPSC regulation. Due to the knowing failure of the Rolla City Council to regulate the utility department, by choosing to view it as a separate business “at arm’s length” and therefore not under their control, no regulatory entity is serving in the Rolla citizens or customers best interest. They did this to protect their right to add a 5% PILOT (in lieu of a 1940’s franchise fee) on top of the exorbitant RMU electric and water bills. Their annual PILOT windfall grows every time RMU raises its rates and fees, so it is easy to see why they choose to turn a blind eye toward the utility. RMU cannot claim that they serve the Rolla public’s best interest when the RMU

Board and management have made so many self-serving decisions that cater to their own sense of self-fulfillment over the best interests of its customers. Two distinct sets of Rolla citizens have formed grassroots citizens groups and petitioned for a State Audit, once in 1997 and again in 2008. Both State Audit reports have outlined several issues of inappropriate policies (free use of vehicles, nepotism, lack of MoPEP debt disclosure, massive gifts to City Hall) that point to their inability to adhere to basic concepts such as good business practices, the Missouri State Statutes, and even simple ethical limits. RMU's poor decisions since joining MoPEP in 2000 have doubled Rolla annual electric bills – whether that customer is a small household or a large industry. In an attempt to change many things at City Hall, above and beyond RMU, I did seek a seat on City Council in 2008, but was not re-elected in 2010. I was not successful in changing the attitude to one where the Rolla City Council must have the final say in much of what RMU does. I heard their lack of oversight expressed over and over. They stated that the Rolla City Council was incapable of setting electric or water rates in city ordinances, but perfectly comfortable with sewer and trash rates. There was a point in the substation project where RMU threatened to use Eminent Domain against a couple living near one of the AmerenUE substations. Not once did RMU Board or management appear before the City council to seek approval for this loathsome threat. Apparently they believed that they could operate completely without regulatory oversight and for the most part, they were correct. These are just a few of the reasons that I developed a cost comparison report earlier this year to present to Council - between retail AmerenUE prices and retail RMU prices - that show the over \$11 million per year savings in annual electrical bills. That's nearly \$1 million per month right now that could be used for job growth or business expansion or education or healthcare in Rolla. Apparently I was the only one on Council that believes we

can do more for our citizens than sit back and let RMU Board and management run amok. Because of my work with the citizens utility group and serving as a strong advocate during city council meetings, I am in a unique position to not only represent my own interests, but also those of the citizens and businesses being harmed by Rolla's unique form of retail electric rate de-regulation.

6. While I can find no minimum standard of educational or career experience in the Rules that would disqualify me from intervening on this case, I will state for the record the following. I have studied Ceramic Engineering at the University of Missouri-Rolla into my junior year. Due to being a single parent of young children, I was forced to look for employment, which I found at Brewer Science in Rolla, MO. I worked for the next five years in the semi-conductor coatings industry performing quality assurance and dye and polymer research. (See, James E. Lamb III, Donna D. Hawley, and J. Michael Mori, "Spin-On Dry Etch Process for Submicron Lithography," *Microelectronic Engineering*, vol. 6, December 1987, pp. 85-90) Due to developing chemical sensitivities, I had to change my career path, so I chose Computer Information Systems and studied at Columbia College, Columbia, MO. I supplemented that coursework with hands-on training in networking and pc hardware at RTI. During April of my last semester in 1999, I found employment with Mizzou at the IT Helpdesk where I performed both systems troubleshooting and database administration. In 2000, I transferred for promotion to the University of MO-Rolla campus into a systems analyst position. In 2002, I was promoted to Helpdesk Manager where I remained until being forced onto long-term disability. During the nearly two years it took to have both UM LTD and SSD approved, I found myself in the humbling situation of turning to public assistance in whatever form I could find to keep my children fed and in their home. I was approved for food stamps and

Medicaid. We used the local food bank once and I eventually found the LIHEAP program for utility assistance. I even borrowed from family to meet the monthly expenses. This difficult life experience taught me the true value of a single dollar. While my education and career experience are not in the electrical engineering field, I have studied many of the same courses that UMR EE's have – from Calculus and Differential Equations to physics and chemistry. I have studied networked systems in both my educational courses and in the practical setting of trouble shooting networked computers. There is a certain familiarity to discussing RMU transmission line overload after spending years looking at circuit board overloads, burned out power supplies, or IT network congestion. Granted the pc networks are on the much smaller scale of a circuit or motherboard, and certainly the technical language differs, however the major principles do translate to the electric utilities and transmission grid. As far as not having a considerable amount of financial background, I would state adamantly that I have enough management, City Council, coursework, and basic life experience to be able to evaluate the economics and financing of this project.

7. Rolla states that the power system upgrades have been fully discussed and disclosed since 2005 (para 11, motion to deny). If the full RW Beck report has not been release for general review, then there is absolutely no validity to that statement. In order to fully understand the choice of the current project, one would have to understand the negatives to all other options. There is absolutely nothing on the RMU website that invites a review or indicates where to make comments. This same failure to notify the public by the local newspaper and County Commission, completely blockades the citizens from forming any opinions of “substance” that could be sent to the MoPSC. That is why is it is crucial that the Rolla public are given their due right to public notice.

8. I do not believe that St. James citizens were given all the facts – especially the fact that they could oppose the Rolla purchase of the substation and lines at the MoPSC level. The St. James newspaper, the Leader Journal, indicated that they essentially had no choice once Rolla told them they were leaving the Phelps substation joint share. Mayor Wilson is quoted as saying, “We pay a tremendous amount of money in user fees from Ameren each month..” and later in the article, “When Rolla moves out the entire annual lease becomes ours.” (<http://www.leaderjournal.com/news/x1090826034/City-Council-approves-8-075-million-bond-sale>) Combine the fear of paying the entire substation lease with being the least financially secure partner in both the Phelps substation joint share and the new Rolla substation project, and you begin to see that St. James just might have been better off if Rolla had actually chosen the base option of purchasing a few transmission lines but staying joint venture partners at the Phelps substation. It is not surprising that St. James citizens overwhelmingly voted to approve those GO Bonds. Their alternative was to lay off people or reduce services to meet that \$300K Ameren bill or go without electricity.
9. The issue at hand should not rest on the fact that Rolla and St. James have forged ahead on this project (para. 3, motion to deny) without first obtaining all approvals, including those of the Mo PSC. I do not see why Rolla, in particular, should be rewarded for this type of financial risk taking. This case has many similarities to the Peculiar vs. StopAquila ruling decided by the Missouri Supreme Court in 2006. Peculiar issued a revenue bond backed lease purchase that its citizens did not vote to approve, thus granting illegal funding to the Aquila power plant construction. Aquila forged ahead with construction, expecting every entity to fall in line, including the nearby county residents most

directly affected. When the Missouri Supreme Court ruled against Peculiar, stating that the power plant had to be torn down, Aquila then went to the legislature to change Missouri state law to allow the MoPSC the authority to retroactively approve the power plant. That authority had a sunset date of August 28, 2009. Likewise, the Rolla City Council passed the same type of lease purchase financing but it was backed by revenue collected from the municipal electric utility department produced from this project (passed through MDFB through MPUA's MAMU to Rolla) instead of bonds. Irregardless of the particular form of revenue debt, the fact remains that the citizens of Rolla will have to satisfy all debt service incurred to this point for what amounts to a electrical system overbuild that violates the very standards of all utilities. Should the MoPSC rule against approval of the substation sale, it would not continue to be a \$15 million economic detriment plus debt service payments. RMU would not need the entire \$15 million in lease purchase payments and could finance only that portion related to transmission line reconfiguration without building a dual transformer bulk substation or requiring the purchase of a \$2 million plus AmerenUE tapping station needed to service the Alfermann bulk substation. Rolla's financial risks associated with the Interest Rate Swaps and the Guaranteed Investment Contract with BayersLB (which is now related below the required Moody's "Aa3" long term, stated in the MDFB issued MAMU revenue note transcript). Even the Rolla Municipal Utilities 2009 auditor has stated that the GIC is not backed by the full faith of the Federal government nor the State of Missouri – a statutory requirement for all Missouri political subdivision's financial investments. I would hope that the MoPSC would consider the very real financial risks of this financing in their consideration of public detriment.

10. RMU takes considerable time to make their case that system reliability would suffer if this project is not completed with the purchase of the new tapping station and construction of the Alfermann bulk substation. I disagree. In fact, RMU itself disagrees. Hard to believe, but after every system outage, either Mr. Bourne or Mr. Watkins would place a press release that explains the outage (time, where, number of customers affected, reason) on the RMU website found here: <http://www.rollamunicipalutilities.org/Page7.aspx?SID=59> .
11. I compiled these statistics to find not one instance where summer peak overloads caused an outage. There undeniably were outages due to summer storms and a poor squirrel, but no system overload was reported on any one line. Even in the PR releases for the two storm outages originating with trees on the St. James lines, RMU GM Watkins states that they were able to reconfigure the system with outages lasting from half an hour to an hour. In no report does Mr. Bourne or Mr. Watkins state that they had to wait hours for AmerenUE to drive in Phelps County to assess the problem and then repair the lines. One of the longest outages of four hours on March 1, 2008, was due to Rolla underground lines inside the city limits. If the PR releases are accurate, then there were no instances, let alone “often” as RMU stipulates. Even the number of outages has been steadily decreasing from 2007 to 2010 with respectively, seven and zero occurrences. It seems obvious as a RMU customer that the current configuration of transmission lines and transformers and bulk stations is already safe and reliable, even if it is not reasonably priced due to MoPEP.
12. Another issue that needs to be looked at is the statement that these contracts were negotiated at “arm’s length” (para 9 of motion to deny). I do not believe that this can be shown. RMU states that they are only wholesale transmission customers of AmerenUE. However, they are actually wholesale power customers



of AmerenUE through their MoPEP and MJMEUC contracts. MJMEUC/MPUA has wholesale power contracts (or absorbs member city's contracts) with AmerenUE. MJMEUC then adds various costs to the AmerenUE power and sells it to both Rolla and St. James, where another series of fees and costs are added to the price of AmerenUE wholesale power. (See MoPEP contract, Exhibit M) In other words, MPUA's children organizations – MJMEUC and MoPEP and MAMU – are simply shell corporations for the member cities (See 2008 Rolla State Audit report, pg XX, . This allows Rolla and St. James to hide the source of their wholesale power from their citizens and anyone else wishing to assess the actual relationship to AmerenUE. St. James and Rolla negotiations were conducted by Dan Watkins who is the brother of St. James City Councilman Dave Watkins. This has never been disclosed and certainly raises doubts as to whether these contracts were negotiated at arm's length. For these reasons, I believe the MoPSC should take a harder look at whether St. James is being forced into taking on a burden it would not otherwise need because Rolla has obtained a revenue backed lease purchase financing with MoPEP's sister, MAMU, that would not pass the Missouri Constitutional requirements for voter approval. These facts fly in the face of the "at arm's length" theory stated by Mr. Duffy (see ).

13. In addition to the hidden AmerenUE wholesale power, MoPEP/RMU/St.James are buying joint shares of billion dollar coal plants and failing to fully disclose their revenue bond debt service requirements in their annual audit reports. At last count, I believe Rolla has well over \$150 million in total debt service that will come due over the next thirty years that is not being disclosed to its citizens or to bonding agents and purchasers. These coal plant revenue bonds have not been put to a vote of either the city's governing Councils or to its citizens. One of the

other must be performed before a revenue-backed debt is issued. That authority cannot rest in the hands of an Rolla city employee, appointed by default to MJMEUC/MoPEP directorships because of the failure of the Rolla City Council to regulate anything RMU. These revenue bonds total well over a billion dollars for four new coal plants that will become more and more costly to operate as environmental restrictions are placed on greenhouse gas producers.

MoPEP/RMU/St.James have not fully performed a financial feasibility study to prove that any of these coal plants can be cost effective over the next ten years let alone forty years because MJMEUC/MoPEP refuses to acknowledge the need to obtain the necessary constitutional approvals. What happens if just one MJMEUC/MoPEP city manages to leave the coal plant financing scheme? There is great financial risk involved in not obtaining the required approvals from each city should any bonding agent or the SEC decide that the citizens were not given the opportunity to decide whether they wanted to go into the coal power plant business. To add that level of financial risk on top of the St. James GO bonds and the Rolla revenue note lease purchase, does create a public economic hurdle for this project. The area cannot grow if our electric rates are nearly double what AmerenUE's retail rates are. By adding this project on top of the massive coal power plant debt service, both Rolla and St. James citizens will be forced to bear the economic brunt of a project that does not pass the Good Utility Practices standards.

14. As far as RMU objecting to the use of August peak loads in my analysis, all I can say is that RMU and RW Beck might have been using a definition for summer that is not commonly utilized. Summer months are usually considered to be July through September. For RMU to pick apart my use of the common definition after withholding the entire set of parameters and their definitions that are

contained in the full RW Beck report, is self-serving and does not defeat my conclusion that RMU peak loads are and have been declining. If RMU does not like my conclusions, then I suggest that the RW Beck report be redacted of its “terrorist-friendly” information, as I have previously requested, and forward a copy of the power system study to me for further analysis.

15. Good Utility Practice standards that both the MoPSC and each entity in the subject transactions profess adherence, require that approval be based on “reasonable judgment in light of the facts known at the time the decisions was made... that could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition, giving due regard to the requirement of governmental agencies having jurisdiction.” Not only should the MoPSC consider that Rolla has not fully disclosed the decline in power needs, but also that “no public detriment” includes Rolla public who has no other forum or venue to be heard independently. For the reasons I have explained in this document and those in the original Application to Intervene, I submit to the MoPSC that neither Rolla or St. James government has chosen to use the facts surrounding this substation sale in a manner that does not assure that a detriment to the public will or has occurred.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was  
sent by electronic mail, on May 17, 2010, to the following:

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Respectfully submitted,

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