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 TO ORDER DIRECTING FILING

SUMMARY

DUE PROCESS

1. Like the represented parties in a PSC hearing or a civil trial, pro se parties are entitled to all the same rights and privileges as any represented party. That means representation with the same access to documents or motions or testimony that is needed to develop their position. Due Process (Mo Const. Art 1 Section 10) of law extends to everyone regardless of whether they have the funds to contract for professional attorneys or whether their budget constrains them to

self-representation. For many, becoming a pro se party is not truly a choice, but an option of last resort to have their rights protected in a court of law or an administrative hearing. In utility matters before the PSC, there are few Missouri attorneys with the expertise necessary, and to my knowledge, there are no expert utility attorneys offering their service pro bono.

2. A fundamental right for any party is to be able to rebut any evidence against their position. Logically, there can be no AmerenUS sale approved by the Commission if there is no qualified buyer - otherwise we have all wasted our time on these proceedings. In this case, the RW Beck engineering study holds all the relevant information as to why Rolla supposedly "needs" to purchase the Phelps substation transformers and associated 34.5 V tranmission lines or why Rolla "needs" to pay for two 138 kV tapping lines and substations to connect those "needed" transformers to the AmerenUE wholesale transmission system. Rolla should be subjected to cross-examinations in testimony and of the underlying study that Rolla says supports these "needs" for increased reliability. In order for me to prepare meaninful testimony questions, I should have the full RW Beck study to review beforehand.

> " Testimony that has not been cross-examined is incompetent and insubstantial since its veracity has never been tested and thus cannot be trusted. Without the support of this testimony ***the evidence upon which the Commission's decision is based is insubstantial and incompetent***. Thus the PSC's Order is not based upon substantial and competent evidence upon the whole record and must be set aside."
> ***State ex rel. Util. Consumers Council v. Pub. Serv. Com., 562 SW 2d 688 – Mo (emphasis added.)***

3. My ability to quesiton RMU's answers in testimony to challenge whether and how much their decision to purchase the AmerenUE infrastructure and equpment impacts the Rolla public. This ability to examine and question the study is necessary whether the standard of review is "in the best interest of the Rolla public" or is "not detrimental to the Rolla public." Obviously a multi-million dollar puchase that is not needed would certainly be detrimental to the Rolla public and would deprive the AmerenUE all future revenue from the wholesale services provided to Rolla through that infrastructure.

Correct Application of PSC Rule Is At Issue

4. In this instance, the PSC has created a rule that appears ambiguous and therefore is creating no small measure of confusion between the parties involved. The rule, 4 CSR 240-2.135(4) is being used by Rolla, St. James and AmerenUE to support their argument that because there was no specific language allowing pro se parties the right to Highly Confidential or Proprietary Information that no such right exists. I disagree. Looking at the Section description for 240-2.125, the Purpose statement shows the intent of the PSC, to give pro litigants the same rights to develop their case as any licensed attorney.

> **4 CSR 240-2.040 Practice Before the Commission**
>
> ***PURPOSE: This rule sets forth who may practice as an attorney before the commission.***
>
> (5) ***Practice by Nonattorneys.*** A natural person may represent himself or herself. Such practice is strictly limited to the appearance of a natural person on his or her own behalf and shall not be made for any other person or entity

5. Subsection (5)'s title alone indicates that natural persons are to be allowed the right to practice before the PSC with the complete meaning of "practice" to include "as an attorney." To not support a pro se party's motion for receiving HC information would result in an arbitrary decision which would lead to appeals because the proposed application would violate Due Process and the plain intent of the commission's own rules.

6. In particular, MoRev Statutes, 536.014 sets out the instances in which the Commission's rule can be declared invalid:

1. *There is an absence of statory authority for the rule or any portion therof; or*

   (There is no statutory authority to my knowledge that would allow for discrimination of pro se parties or their right to collect documents in discovery to be used in their case.)

2. *The rule is in conflict with state law; or*

   (The Rolla proposed application of the rule certainly would interfere with a pro se party's right to Due Process.)

3. *The rule is so arbitrary and capricious as to create such substantial inequity as to be unreasonably burdensome on persons affected.*

   (The Rolla proposed application of the rule creates a hurdle to obtaining the same information that all other represented party's already have access.)

7. The suggested application of the rule by Rolla is based on their fear that a pro se party has a tendency to publish HC or P records is not based in facts on the record when the Commission held hearings in 2006 to adopt the rule as it stands. The record in Case No. AX-2003-0404 contains not one factual instance of a pro se party divulging or publishing HC or P material to outside entities. Also missing is any testimony by a municipal utility which might have been helpful to evaluate whether the proposed exclusion of pro se rights to access HC material is consistent with the Missouri Sunshine Law's focus on open records. Instead there is a lot of testimony where the for-profit utilities relay their unfounded fears that this might happen and the negative impact to their company in regards to maintaining their competitive advantage. Since there is no substantial evidence on the rulemaking case record for the PSC to withhold HC or P information from pro se parties it would be considered arbitrary and capricious. The Rolla solutions to this inequity in access (denial or protective order and special counsel) being considered in this case could also set a dangerous precedent for future cases involving pro se parties. These so-called "solutions" are an unnecessary, time-consuming and discriminatory burden on the pro se party based on unfound fears over disclosure of material that is most likely not subject to being closed under the Mo Sunshine Laws.

8. In particular and to speak to my previous admission that I told others the derogatory phrase that our Mayor Pro Temp used toward the State Audit petitioners is absolutely not an admission that I divulged a protected record. There is nothing in the Missouri Sunshine Laws, Chapter 610, which would classify derogatory comments by members of a closed session

meeting as a closed record. Executive sessions are exempt from public disclosure only to the extent that they pertain to the reason for going into closed session and this exemption is to be strictly construed. We went into closed session to discuss and approve the Rolla City Administrator's responses to the State Auditor's findings. To use the closed session to villify the character of those citizens who were successful in petitioning for the State Auditor was an abuse of the Sunshine Law. No meeting participant is required to keep such illegal actions confidential. Furthermore, Rolla city council members quite frequently state their opinion that the contents of the closed session minutes are the only and complete record of what happened. They even believe that the televised programs that the City pays for are not an "official record," so it follows by Rolla's typical reasoning that any derogatory comment that is not in their sanitized meeting minutes simply did not happen and is not protected from disclosure. I've reviewed those closed minutes and they don't mention the Mayor Pro temp's remarks. Rolla's fear that I will divulge any portion of the RW Beck engineering report that they have deemed is a closed record are truly unfounded.

ISSUE 1. Cite the legal authority that supports the position that a pro se litigant is entitled to Highly Confidential information per Missouri Public Service Commission Rule 4 CSR 240-2.135

9. The claim of privilege under Commission Rules 4 CSR 240-2.085 and 2.135 does not apply to these Issues or to my document request because the definition of "public utility" is misapplied to *municipal* "public" utilities.

Questions 1 and 2 do not apply because they are based upon a wrong premise: RMU is a NOT a *"public utility"* within the meaning of 4 CSR 240-2.135 and 4 CSR 240-2.085

10. RMU not a "public" utility as PSC uses the word. Therefore there can be no Highly Confidential information designated by the Commission to protect. In addition, the RW Beck study does not meet any of the Commission's seven point criteria for Proprietary or Highly Confidential information to be withheld as confidential.

11. Both PSC rules in Issues 1 and 2 apply *only to private for-profit companies* or "equity" utility companies that are unfortunately, commonly called "public utilities" in Missouri statutes and the PSC section of the Code of State Regulations. The state, in characteristically sloppy fashion, has never clearly defined a "public utility," or equity utility company i.e. a for-profit utility company whose stock is publicly held by private investors and thus is regulated by the PSC, to distinguish it from a truly "public utility," i.e. the *non-profit utility department* of a city or town which buys power wholesale (often from one of the regulated for-profit "public utilities") and distributes and sells the power at an *unregulated markup* inside the city's boarders via their own infrastructure. The markup is not allowed by state law to produce a profit as "profit" is known in the commercial world by for-profit utility companies but must by law be only that necessary to cover costs as two Missouri State Auditors have pointed out in petition audits in Rolla first in 1998 and again most recently in 2009.[1]

1.

[1] The same gross overcharging by the local "public utility" was uncovered in state petition audits conducted by the State Auditor in Marceline, Salem, and Hermann Missouri in 2010, 2010 and 2004 respectively. The Hermann Marceline and Salem utility fees are the basis for three class-action lawsuits claiming the excessive fee inflation and skimming practices violate the Hancock Law. The Hermann case is being appealed. – J. Mello, Armstrong Teasdale LLP

12. The municipal public utility is a "public" body in the constitutional sense (the constitutional and statutory references to municipal public utilities being too numerous to cite) and the R.W. Beck study and all the other documents I requested were paid for with revenues derived from fees and charges to citizens of the City of Rolla. All documents, like all of RMU's equipment and infrastructure down to the last bolt and copper wire, likewise belong to the people of the City of Rolla.

13. Neither RMU nor for-profit corporations are "investor-owned utilities." To further confuse everyone, PSC statutes [2] also refer to "investor-owner utilities" which one might logically think are the AmerenUE's and KP&L's which their investors do in fact own but in this case the statute writers, again dizzily, use the term to refer to rural electric cooperatives but not equity corporations or for-profit utility corporations, which in fact *are* investor-owned utilities.

14. As the Missouri Supreme Court does when faced with semantic confusion, we must rely on the plain dictionary meaning of words. "Public" in both Webster's and the American College Dictionary means: "1. of, pertaining to, or affecting the people as a whole, or the community, state or nation: public affairs. 2. done, made, acting, etc., for the people or community as a whole."

15. The activities of an AmerenUE or a KP& L corporation do not affect "the people as a whole" or "the community" in the meaning of the word as defined above. It affects only those who are their customers and they affect the whole community only if the majority, or all, of the members of a given community are their retail customers.

1. _____

1. [2] Jurisdiction of the Commission RSMo 386.250. (5)

16. The common understanding. In reading the comments from the December 1, 2006 Order of Rulemaking, all the responders were for-profit companies with the exception of the Public Counsel. The nature of their remarks made it clear that the common understanding of all of those commenting, including the PSC, was that the rule under discussion (4 CSR 240-2.135) would apply only to for-profit utility companies such as the ones doing the commenting, i.e. AmerenUE, Laclede Gas, etc., but not to the "municipal public utilities" such as RMU, Springfield, Ava, Hannibal and the like. It is possible that non-profit municipal public utilities do not even receive notices of PSC rule-making and are not invited to comment on rule changes because the subject matter obviously has no relevance to their operations or their legal status.

17. The PSC has never to my knowledge willingly regulated municipal "public" utilities except in those few instances where some act by the municipality impinged upon the territory or interests of a regulated "public utility" or vice versa. Therefore every reference in the Commission Rules 4 CSR 240-2.085 and 2.135 to a so-called "public utility" must be taken to apply only to private for-profit corporations and their competitive private business interests but not to Missouri's towns such as the City of Rolla with their unregulated, locally-controlled, public utility departments.

The Highly Confidential Information criteria does not apply to the R.W. Beck report because the City of Rolla is a municipality, not a private for profit corporation

18. The second category, (B) Highly Confidential information has no application to this issue because of the original error in defining RMU as a "public utility" in the same way that the PSC refers to AmerenUE and other similar for-profit utility corporations as "public utilities." In the list of criteria contained in 4 CSR 240-2.135 the requested RW Beck material *should not* contain any of the following. I am forced to qualify the

statement by saying "should not contain" because having seen only a heavily censored copy of the report with, in one case, of the entire Exhibit 4 comprised of ten (10) consecutive pages that are totally blank saying only "PAGE CONTAINS CLOSED RECORD MATERIAL," I cannot say for certain that one of the many blank pages does not contain one or two of those items in the criteria. I can only deduce that those items *should not* be part of an engineering report on the feasibility of this project if RMU is not, as they claim, a for-profit "public" utility. If I knew the totality of what was actually in the report I could better determine what legal precedents I need to call upon.

The "Sunshine Law is the dividing line between "Highly Confidential" in the Private Sector and Closed Record in the Public Sector

19. The differences in the treatment of confidential information between for-profit utility corporations and non-profit municipal corporations are specifically addressed in the "Sunshine Law" Chapter 610 RSMo. Those rules, for the most part, do not apply to private for-profit corporations unless a private for-profit company voluntarily crosses the line and becomes a "quasi-public governmental body" as described in 610.010(4)(f)a.

Highly Confidential criteria in 4 CSR 240-2.135- discussed:

1. Material or documents that contain information relating directly to specific customers;

20. Names and addresses of (municipal public) utility customers are public records unless those customers request confidentiality." *RSMo 610. City of Springfield v. Events Publishing Co., 951 S.W.2d 366 (Mo. App. S.D. 1997)* also see: **RSMo 610.010 (6) "Public record"** defined in answer #5 below.

2. Employee-sensitive personnel information;

21. RSMo. 610.021. (3). Closed meetings and closed records authorized when. In a municipality including a municipal utility department, some personally identifiable employee information such as names, positions, salaries, lengths of service of officers and employees of public agencies are open record. Also, after 72 hours the vote on a final decision, when taken by a governmental body, to hire, fire, promote or discipline an employee of a public governmental body, such as in the City of Rolla or RMU, the information shall be made available to the public along with a record of how each member voted. RMU has never been known to comply with this section of the law but it is nevertheless the law.

22. The disclosures and procedures in 610.021. (2). are not required of a for-profit utility corporation.

3. Marketing analysis or other market specific information relating to services offered in competition with others;

23. Municipalities and municipalities have no need for market analysis of their services offered in competition with others because they have no competition. They have a monopoly on all city services if they wish to exercise it and also have police powers which the City of Rolla can and does use to discourage private enterprise from attempting competition.

4. Marketing analysis or other market specific information relating to goods or services purchased or acquired for use by a company in providing services to customers;

Same response as #3.

5. Reports, work papers, or other documentation related to work produced by internal or external auditors or consultants;

24. The work papers privilege for attorneys and auditors is somewhat the same for municipalities as for private corporations with the exceptions addressed in…

25. RSMo 610.010 (6). "Public record", any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body; provided however, that personally identifiable student records maintained by public educational institutions…etc..

26. RSMo 610.021 Requires that "legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public body….etc. "shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition the settlement agreement is ordered closed by a court …." The possibility of disclosure of minutes, votes and other pre settlement information is another distinction between non-profit public municipal utilities and for-profit utility corporations.

27. RSMo 610.011 Liberal construction of law to be public policy. Any doubts as to interpretations of the Sunshine Law are to be resolved in favor of open government. …."Sections 610.010 to 610.200 shall be liberally construed and their exceptions strictly construed to promote this public policy."

6. Strategies employed, to be employed, or under consideration in contract negotiations;

28. RSMo 610.021 (9) allows for closed meetings, records and votes relating to "Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups." In this one feature the two "public" utilities, for-profit and non-profit have similarities however, there are limits to the things public employee groups can do and negotiate for especially in the area of pay and work stoppage.

7. Information relating to the security of a company's facilities.

29. Presumably "facilities" in this context would mean the physical plant discussed in the RW Beck report and whatever connects to it. The "facility" under discussion is not an enclosed structure like a bank, a military installation or the Pentagon. Anyone driving by this facility on the heavily used Old St. James Road can see right through it to the other side. The only "security" it will have is a chain-link fence so this alleged need to keep the "security" of this "facility" Highly Confidential is preposterous.

30. Asking what legal authorities support my position that I am entitled to the un-censored document when I can only guess at the contents of the *heavily redacted document* is like asking a blind man to draw an elephant.

ISSUE 2. Rolla is not entitled to a protective order per Commission Rule 4 CSR 240-2.085

31. Treating pro se parties more harshly than represented parties is violative of Due Process and also would make the rule in 4 CSR 240-2.134 invalid under MoRev stat 536.014. There appears to be no state authority for requiring a protective order being placed on access to highly confidential or proprietary information in this Case.

32. In 2007 fear of terrorists was the publicly stated excuse of Jim Stoffer, President of the Rolla Board of Public Works, for denying my Open Records request and the Sunshine request of others for the R.W. Beck study.

33. In addition to none-of-the-above PSC rules applying to the RMU engineering report which was *paid for with public funds*, the Protective Order should not be applied because the report did not become a subject of controversy and part of this keep-away game until after I and other citizens initiated the petition that resulted in the State Auditor conducting a special audit of the city and RMU. In June 2009, as a member of the Rolla City Council, I asked for a copy of the full study instead of the abbreviated executive summary - I was refused on grounds the RMU Board would only release the Study to the entire Council if the majority voted in favor, but RMU Board President Stoffer would release it to a single Councilwoman. Apparently, now they have modified their excuse so that they can release portions on other grounds – the passage of time and their need to expedite the PSC proceedings.

34. The Terrorism Excuse. If the infrastructure they're buying from AmerenUE wasn't of interest to terrorists while AmerenUE owned it is unlikely to be more interesting to

them after the RMU purchase. The substation has been highly publicized, discussed, written about and photographed in both the Rolla and St. James newspapers which should have given terrorists all the information they need without the Beck study. To blow something up a terrorist doesn't need 20-year projections of the rate of inflation and cost of capital or the names of delivery points – all of this data is presumably as useless to terrorists as they are uninteresting to the citizens of Rolla.

35. RMU Board President Stoffer, at a boardl meeting and on camera in October, 2007,[3], explained to the Rolla council that that he had denied my request out of fear that the RW Beck study would give "terrorists" information to wreck havoc with national security. He finally offered to "allow" the twelve members of the city council, the mayor, city attorney and city clerk access to the full study *but only if they would read it in a closed session and return our copies at the end of the session*.

36. The excuse of compelling secrecy on terrorism grounds was breached when he made that offer to fifteen or more miscellaneous City Council and staff as none of us had any kind of background checks or security clearance that RMU Manager Dan Watkins had previously required of me. There is no record of how many city or RMU employees then or since have had access to or have made copies of the report. Certainly the RW Beck staff did not have the type of security clearance as stated in an email previously submitted to the Commission.

37. A few months ago the City of St. James became a partner in this project. Presumably the city council, mayor, city attorney, city economic developer, city clerk and miscellaneous others have also had access to the report. If not, then what need –

1.

[3] A copy of the tape of the meeting is available.

reliability or financial – is St. James basing their purchase of the Phelps substation and associated 34.5 kV transmissions lines?

38. In striking the deal with AmerenUE and, belatedly, with the St. James City Council to enter into their various contracts, and for Rolla to arrange their $17.9 million in lease purchase backed revenue notes and other financial contracts such as Interest Rate Swaps, how many other management people, secretaries, clerks and others, all without national security clearance, have seen and even been given copies of the full R.W. Beck study?

39. I've noticed that while the "terrorist" story played well three years ago with the locals - RMU's attorneys don't mention them now but talk about the more vague "security" concerns without explaining what those are.

40. After three years it's suspiciously late to claim the Beck study is "Highly Confidential" for other reasons and then claim they need a Protective Order to hide its contents.

Chapter 610.021 (18) does not apply to their "terrorism" claim

41. Again, because of the misapplication of the word "public" in PSC rules to municipal "public" utilities, the only rules that can be used to close all or part of this document are those in the "Sunshine" law and RMU tacitly admitted Chapter 610 was their controlling statute by taking the vote to redact (illegally as it happens) by citing only "Chapter 610"[4] in their cover letter.

1.

[4] A public body is not allowed to use the blanket cite of 610 but must cite the specific section of the chapter. This one happens to be 610.021 (18).

42. Unfortunately, any reference to closing records due to threats of terrorism in Chapter 610.021 (18) as Mr. Stoffer used to the council in October 2007 and in subsequent newspaper coverage, is also not applicable to his excuse or to this argument.

43. That section of RSMo 610 which "sunsets" on December 31, 2012, refers only to "operational guidelines and policies developed by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health." RMU is a first responder but the Beck report is not (so far as one can tell) an "operational guideline or a policy" so the terrorism exemption does not apply.

44. That section of 610.021 (18) also says "Nothing in this exception shall be deemed to close information regarding expenditures, purchases, or contracts made by an agency in implementing these guidelines or policies." Even if that section did apply to RMU's report, which it clearly does not, to close the information "the agency shall affirmatively state in writing that disclosure would impair its ability to protect the safety or health of persons, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records." The City council and RMU have failed to make this formal written declaration to "affirmatively state in writing" that they fear terrorists for the past three years and it's too late to make it now.

45. Subsection (19) states: Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a nonpublic entity owning or operating an infrastructure to any public

governmental body *for use by that body to devise plans for protection of that infrastructure,* the public disclosure of which would threaten public safety.

46. The intent of the legislature in (19) appears to be to close records that are used to develop security plans that would protect the governmental body's infrastructure. To broaden this subsection to close all governmental bodies structural plans would be ludicrous and especially so in the particular instance of RMU infrastructure. A terrorist could only use the structural plans to release a toxin or blow up a substation or cut a transmission line. All of these utility structures are sitting in open spaces and easily viewed by anyone. There has to be some measure of expectation of operational secrecy such as a bank vault for this exception to afford any protection to the health and safety of citizens in those buildings. That simply is not the case with utility infrastructure. As such, I believe the act by the RMU Board to close the RW Beck Engineering study was not based to protect the public, but rather to prevent the public from examining why RMU chose a $17.9 Million project over a more cost effective one.

47. Vote to redact taken by the wrong party. Unfortunately, even if they had followed the correct procedures required in the Sunshine law to make a written declaration of terrorism in order to close or redact part or all of the study, they still would have done it wrong and their vote would have been and is now worthless.

48. Chapter 610 requirement for a local policy on open meetings and open records was complied with by the City of Rolla years ago with the passage of a local Open

Meetings/Open Records ordinance complete with fee schedules etc. This ordinance is to be followed by each department and each employee of the city.

49. Likewise, the vote to release or not release any document belonging to the city – in this case the Beck study - and in what form should have been taken by the Rolla City Council – not by the council-appointed board that manages the utility. The *RMU board does not have the legislative authority to pass or amend ordinances or to modify or interpret those passed by the legislative body of the city* even though they often usurp the privilege.[5]

50. The city council has not adopted any amendment to their Open Meeting/Open Records ordinance providing any non-standard processes for RMU nor should they because the Rolla Municipal Utility is merely a department of the City of Rolla with a four-person public works *management* board appointed by the city council. The city council can control all activities and decisions of their appointed board by passage of ordinances if the council chooses. In some towns the city council *is* the utility board.

51. Despite the RMU board's unfortunate habit of signing or allowing their employees to illegally sign contracts (see 244 S.W.2d 55 (1951), BOARD OF PUBLIC WORKS OF ROLLA v. SHO-ME POWER CORP. No. 42592. Supreme Court of Missouri, en Banc.) which usurps the council's legislative powers, and their habit of taking other liberties with the law as demonstrated in this case, the public works board is not a sovereign entity and they do not have legislative powers but are only allowed certain

1. _____

2. [5] **Council to prescribe powers--rules and regulations. RSMo 91.490.** Said board shall also exercise such other powers and perform such other duties in the superintendence of public works, improvements and repairs constructed by authority of the common council or owned by the city as may be prescribed by ordinance. Said board shall make all necessary regulations for the government of the department not inconsistent with the general laws of this state, the charter of such city or the ordinances thereof.

management duties such as hiring and firing personnel and directing their work.6 The public works department is merely another management department of the municipality such as the trash department or park department. For the trash department committee to vote to redact a copy of a consultants report on how to expand the recycling center would be as ludicrous and improper as the action taken by the Rolla board of public works to redact the copy of an engineering report prepared for a project paid for with money from the 10.3¢ per kWh they charge the citizens for electric service.

52. It strikes me as more than just slightly inequitable that every party involved this hearing and their staff and attorneys probably have had access to the un-redacted Beck study except one. It is also ironic that the only party being denied the document is the one that doesn't have mega millions riding on the outcome.

ISSUE 3. Re appointing special counsel to follow the Commission's Highly Confidential procedures

53. I would be very glad for the assistance of an appointed special counsel to help me with the Highly Confidential procedures if the Commission burdens this process with them.

54. I live in a very isolated rural area with no access to a law library. The last time I checked it cost $500 for a years subscription to Westlaw or they charge your credit card per case downloaded neither of which I can afford.

1.

[6] **Board to manage municipal utilities.91.480.** "... and it shall be its duty, to take charge of and exercise control over"

55. Both AmerenUE's legal staff and the law firm retained by RMU can allocate many staff hours to doing the research necessary to respond to these deadlines; I cannot.

56. Both AmerenUE and RMU can pay for the resources they use with revenues derived from utility fees; in fact RMU is using my utility payments to pay to oppose me.

57. Considering all of the above I would be very grateful for appointed special counsel, however, if it is the Commission's decision that the redacted material remain censored I fail to see how even the most able special counsel can be of much help if he or she becomes another blind man trying to draw another elephant.

Respectfully submitted,

Donna D. Hawley
2602 Brook Dr.
Rolla, MO 65401
hawleyd@fidnet.com
573-458-2165

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on August 10, 2010, to the following:

Kevin Thompson
OFFICE OF THE GENERAL COUNSEL
Governor Office Building, 8th Floor
Jefferson City, Mo 65101 Jefferson City, MO 65101
Kevin.thompson@psc.mo.gov

Lewis Mills
OFFICE OF THE PUBLIC COUNSEL
Governor Office Building, 6th Floor
lewis.mills@ded.mo.gov

Steven R. Sullivan
Thomas M. Byrne
AMEREN SERVICES COMPANY
St. Louis, MO
lowery@smithlewis.com
ssullivan@ameren.com

James B. Lowery
SMITH LEWIS LLP
Columbia, MO
tbyrne@ameren.com

Gary W. Duffy MBE #24905
BRYDON, SWEARENGEN & ENGLAND P.C.
312 E. Capitol Avenue
P. O. Box 456
Jefferson City, MO 65102
duffy@brydonlaw.com
Attorneys for
The City of Rolla, Missouri
The City of St. James, Missouri

Respectfully submitted,

Donna D. Hawley