

**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 DENY EXPEDITED TREATMENT**

1. Comes now Donna Hawley of 2602 Brook Dr., Rolla, Mo to file a motion to deny the Rolla and St. James Motion for Expedited Treatment of this case, filed on July 1, 2010.

2. An expedited treatment of a case before the MoPSC might be acceptable in a case where there are no issues of fact being contested. That is not the situation encountered with this case. There are several issues of fact that Rolla Municipal Utilities, RMU, has not addressed that have been raised before the Missouri Public Service Commission. To serve the Rolla area public's best interests these issues should be resolved before granting expedited treatment of this case.

**NO PUBLIC NOTICE OF CASE BEFORE MO PSC**

3. Neither RMU nor the Rolla Daily News has published the required legal notice of this case before the MoPSC. Contrary to RMU's position that its website includes a mechanism to submit comments on this project, there is in reality no such link provided. This is also true of the City of Rolla's website. In contrast, it is possible for

area citizens to be allowed to submit comments on this case out of time directly to the MoPSC. Therefore, I submit to the MoPSC a motion that legal notice with the standard timeframe for public comments and submissions is allowed before this case continues to the next stage.

## **RMU HAS NOT OBTAINED CITY COUNCIL APPROVAL FOR CONTRACTS OR CURRENT SYSTEM UPGRADES AND PURCHASES**

4. There is the issue of RMU failing to obtain City Council authorization before initiating contracts relative to this project. RSMo 91.530 states that “all contracts shall be submitted to the common council for approval.” The RMU Board has had a history of failure to consult the Rolla City Council on various contracts relative to this case. In particular, I can find no evidence that the 2008 Letter of Authorization that RMU gave to AmerenUE to construct the \$2 million tapping stations was ever approved by the Rolla City Council. Land acquisitions and threats of use of Eminent Domain were not approved by Council. In fact, there has been no Council majority vote specifically authorizing RMU to proceed with this project. Contrary to RMU Board President Jim Stoffer’s statement to Council on July 7, 2010, approval of a lease purchase financing does not automatically approve the underlying project. Without a City Council majority vote approving this project with full details I do not see how the case can proceed. The citizens of Rolla are represented by their elected officials, not the appointed RMU Board, and their elected officials have not approved this project.

### RMU WITHHOLDING PUBLIC DOCUMENT CRITICAL TO CASE

5. In order for Rolla area citizens to submit comments of substance to the MoPSC, they need access to the entire engineering study prepared by R.W. Beck. However, RMU continues to withhold publishing of the complete R.W. Beck engineering study to Rolla area citizens. This public information blackout has been in place from the day the engineering study was released in October 2007. In fact RMU placed a clause in the study agreement whereby only RMU could grant access (**Exhibit A, Corrigan email**). This flies in the face of the intent of Missouri Sunshine Laws which assure citizens access to public documents – even those prepared and held offsite.

6. During the only public presentation by RMU of their chosen plan in the engineering study, RMU Board President Stoffer denied area citizens access to the R.W. Beck engineers to answer questions after their power point slide presentation (**Exhibit B, RMU minutes and Exhibit C, RDN article**). This was not a true public hearing that is typical for transmission projects, but rather a simple power point presentation given during a regular RMU Board meeting. This information blackout designed by RMU and condoned by the Rolla City Council has effectively denied any area citizen the ability to question the necessity for RMU to construct the most expensive systems upgrade.

7. RMU's reasons for withholding this public document have changed over time. RMU Board President Dr. Stoffer explained during the Oct. 27, 2007 public presentation of the study's summary that the RW Beck engineering report is a closed document to prevent "terrorists access." RMU management's claim that full disclosure could be

considered a Homeland Security threat is shown in their response to Sunshine Law requests for the R.W. Beck engineering study in February 2008. Contrary to RMU pleadings, I did not request the full report prior to that date. Their official response (**Exhibit D and E, Sunshine Law Requests**) is almost verbatim from the text of Chapter 610.21 (18) and (19) which were enacted to protect citizens and infrastructure from terrorists. To my knowledge, there have been no credible (or not so credible) threats by terrorists to destroy the RMU power system.

8. RMU management continued to maintain that every single page of the engineering study report is closed and denied my request for a redacted copy which must be provided under Missouri Sunshine Laws. According to MO Revised Statutes,

**610.024. Public record containing exempt and nonexempt materials, nonexempt to be made available — deleted exempt materials to be explained, exception.**

1. If a public record contains material which is not exempt from disclosure as well as material which is exempt from disclosure, the public governmental body shall separate the exempt and nonexempt material and make the nonexempt material available for examination and copying.

2. When designing a public record, a public governmental body shall, to the extent practicable, facilitate a separation of exempt from nonexempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the public governmental body shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

RMU should have provided a copy with redactions and descriptions of the material that was exempt. I question whether RMU can exempt the entire engineering report based

on the exemption in Chapter 610.21 (21) which deals with credit card transactions and not power system security.

(21) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body.

9. I was told during a RMU Board meeting on Sept 24, 2007, that I did not have high enough security clearance to review the RW Beck engineering study, so I questioned the Board and RMU management as to what security clearances each of the officers and managers held since they had access. I also asked how the security clearances could be obtained. I did not receive an answer except that then General Manager Dan Watkins stated that he did have the necessary Security Clearances. I do not believe that there exists a specific Homeland Security clearance or that one would be required for reading a basic engineering study. The RMU Board and Management along with City Attorney John Beger told the City Council on May 15, 2008, that the engineering report contained, "certain security considerations for the safety of the system, which if released to the public, could endanger the security of the system."

**(Exhibit F, Council minutes)** My concern was that RMU may have been using a bogus reason for withholding the entire engineering study so I contacted RW Beck Vice President, Timothy Corrigan. He confirmed the reasonableness of my concerns in his responding email that I received on May 22, 2008. Mr. Corrigan explains that none of his employees have Homeland Security Clearances nor do they perform security work for power systems *(Exhibit A, Corrigan email)*.

“RW Beck does not (with a couple of rare exceptions regarding water utility "vulnerability" assessments which we did with a security sub consultant) perform security assessments for utilities. We do not have Homeland Security clearances, nor am I even clear as to what, or how, those clearances are obtained.”

He classified the Rolla study as “fairly straightforward system improvement studies, and from our perspective it was engineering based, not security based.” Mr. Corrigan goes on to state that power systems studies can be used to assess system vulnerabilities but that RMU did not indicate to RW Beck that they would be performing that function with the information RW Beck provided in the engineering report.

10. RMU has apparently downgraded the Homeland Security threat assessed earlier that might occur with release of the RW Beck engineering study. During a televised rant before the City Council on July 7, 2010, after returning from the MoPSC hearings on this

case, RMU Board President Stoffer called for area citizens to pressure me into withdrawing from intervening in this case because I will cost citizens millions of dollars as I will delay the MoPSC proceedings. Further into his rant, Dr. Stoffer indicated that the reason for the RW Beck engineering study to hold closed status under Missouri's Sunshine Laws is that it contains "legalese" that isn't relevant to RMU's system upgrades. "Legalese" is a far cry from censure due to Homeland Security issues. Furthermore, there is no "legalese" exemption under the Sunshine Laws.

11. Since the RW Beck engineering study has been downgraded by RMU Board President Dr. Stoffer from Homeland Security threat to merely "legalese," I contend that the entire engineering study must be made available to every citizen in Rolla. The data and information contained in the RW Beck engineering study, a public document subject to full disclosure under the Missouri Sunshine Laws, is critical not only to my ability to develop my case before the MoPSC but equally important to the citizens of Rolla to facilitate their understanding of how RMU Board and Management make business decisions that require proceedings before the MoPSC.

12. I have taken enormous steps as a citizen and as a city councilwoman to obtain this document for public review over the last two years. Unfortunately, I have been stonewalled by the RMU Board and Management, as well as the Rolla City Council and

the City Attorney. I have sent another Sunshine Law request to RMU for the complete RW Beck engineering study stating that I need this document for this case (Exhibit G, Sunshine Law request). Until I receive the core document and have time to review it, I will be unable to submit a witness list, exhibits or prepare a schedule.

13. Therefore, for the reasons I have outlined in this pleading and for all other issues in contention that I have brought before the MoPSC, I am making a motion to deny the RMU and St. James motion for expedited treatment because it would be detrimental to the Rolla public's best interest.

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 July 12, 2010, to the following:

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Respectfully submitted,

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