

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY

May 13, 1999

CASE NO: EM-96-149

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

Sincerely,



Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge

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**BEFORE THE PUBLIC SERVICE COMMISSION**  
**OF THE STATE OF MISSOURI**

In the Matter of the Application of Union )  
Electric Company for an Order Authorizing: )  
(1) Certain Merger Transactions Involving )  
Union Electric Company; (2) The Transfer )  
of Certain Assets, Real Estate, Leased ) **Case No. EM-96-149**  
Property, Easements and Contractual )  
Agreements to Central Illinois Public )  
Service Company; and (3) In Connection )  
Therewith, Certain Other Related )  
Transactions )

**ORDER GRANTING INTERVENTIONS, GRANTING LEAVE**  
**TO APPEAR AND AMENDING PROCEDURAL SCHEDULE**

On March 24, 1999, an Application to Intervene was filed on behalf of Adam's Mark Hotel, Alcoa Foil Products (Alumax, Inc.), The Boeing Company, General Motors Corporation, Mallinckrodt, Inc., Procter & Gamble Manufacturing Company and Ralston Purina Company (collectively Missouri Industrial Energy Consumers or MIEC). In support of the Application to Intervene, MIEC stated that the Commission issued an order in Case No. ER-95-411 that all parties to that case would be parties to Case No. EM-96-149. MIEC stated that a number of those parties are members of the Missouri Industrial Energy Consumers. MIEC stated that its group consists of large customers of Union Electric Company (UE). MIEC stated that its members who are presently parties to this case include Anheuser-Busch, Inc., Ford Motor Company, Holnam, Inc., Hussmann Refrigeration, ISP Minerals, MEMC Electronic Materials and Monsanto Company. MIEC stated that McDonnell Douglas was also a party to this case and is now known as

The Boeing Company. MIEC stated that the applicants would like to join the MIEC companies that are already parties in this case. MIEC noted that as large customers of UE, MIEC members have an interest in this case that is different than that of the general public. MIEC takes the position that the rates and the terms and conditions of MIEC members' electric service should not be adversely affected by the outcome of this case. MIEC stated that no party will be prejudiced if this Application to Intervene is granted because other members of the MIEC are already a party to this case and have actively participated in this case. No objections were received to this application for late intervention.

On April 20, UE filed a Request for Leave to Appear by Robert J. Cynkar, Craig S. Lerner and Michael W. Kirk on behalf of UE. In support of its motion, UE stated that Robert J. Cynkar, Craig S. Lerner and Michael W. Kirk are all members of the law firm of Cooper Carvin & Rosenthal, 1500 K Street, N.W., Washington, D.C. 20005. Mr. Cynkar is a member in good standing of the bars of the states of Virginia, Illinois and District of Columbia. Mr. Lerner and Mr. Kirk are members in good standing of the bars of the state of New York and District of Columbia. Mr. Lerner is also a member in good standing of the bar in the state of Massachusetts. UE also stated that none of the attorneys or any members of the law firm of Cooper Carvin & Rosenthal are disqualified to appear before any of the courts listed above. The request noted that James J. Cook is a member in good standing of the Missouri Bar and is currently and will continue to

appear as an attorney of record for UE. No objections were received opposing this Request for Leave to Appear.

On May 3, an application to intervene was filed by Friendship Village of South County, Friendship Village of West County, Village North, Cardinal Ritter Institute, and Orchard House Partnership (collectively Retirement Facilities Coalition or RFC). The application stated that the members of RFC are retirement care facilities located in the service territory of UE which must purchase all electric service from UE. RFC also stated that it is a party to Case No. EO-96-15, the UE case dealing with Class Cost of Service and Rate Design. RFC stated that they have entered into a Stipulation and Agreement in Case No. EO-96-15, which if approved by the Commission, will result in the distribution of any revenue reduction ordered in Case No. EM-96-149 among UE's non-residential rate classes in accordance with the Stipulation and Agreement. RFC asserted that as members of UE's Large General Service rate classification, and as parties to Case No. EO-96-15, the members of RFC are directly interested in the outcome of Case No. EM-96-149, and that interest is different than that of the general public. RFC stated that it will not seek to file testimony and will not seek any extension or delays in the procedural schedule if granted intervention. RFC alleged that no party would be prejudiced if the Commission grants this application for late intervention. No objections were received opposing this application for late intervention.

The Commission has reviewed the pending motions and requests filed. The Commission finds that Adam's Mark Hotel, Alcoa Foil

Products (Alumax, Inc.), The Boeing Company, General Motors Corporation, Mallinckrodt, Inc., Procter & Gamble Manufacturing Company, Ralston Purina Company, Friendship Village of South County, Friendship Village of West County, Village North, Cardinal Ritter Institute, and Orchard House Partnership have an interest different from that of the general public and will be granted intervention out of time. The Commission finds that Robert J. Cynkar, Craig S. Lerner and Michael W. Kirk have complied with 4 CSR 240-2.040(6)(C), and will grant leave for their entry of appearances on behalf of UE.

A procedural schedule was established for Case No. EO-96-14 in the Commission order issued March 18, 1999. Since then, the hearing for Case No. EO-96-14 and Case No. EM-96-149 has been rescheduled for June 1, 2 and 3, 1999. The date for filing the hearing memorandum will be cancelled. The following conditions shall apply to this amended schedule instead of the conditions that applied to the original schedule:

(A) The Commission will require the prefiling of testimony as defined in 4 CSR 240-2.130. All parties shall comply with this rule, including the requirement that testimony be filed on line-numbered pages. The practice of prefiling testimony is designed to give parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays caused by allegations of unfair surprise at the hearing.

(B) Pursuant to 4 CSR 240-2.130(15), testimony and schedules shall not be filed under seal and treated as proprietary or highly confidential unless the Commission has first established a protective

order. Any testimony or schedule filed without a protective order first being established shall be considered public information.

(C) The parties shall agree upon and the Staff shall file a list of the issues to be heard, the witnesses to appear on each day of the hearing and the order in which they shall be called, and the order of cross-examination for each witness. Any issue not contained in this list of issues will be viewed as uncontested and not requiring resolution by the Commission.

(D) Each party shall file a statement of its position on each disputed issue. Such statement shall be simple and concise, and shall not contain argument about why the party believes its position to be the correct one.

(E) The Commission's general policy provides for the filing of the transcript within two weeks after the hearing. If any party seeks to expedite the filing of the transcript, such request shall be tendered in writing to the regulatory law judge at least five days prior to the date of the hearing.

(F) All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080. Briefs shall follow the same list of issues as filed in the case and shall set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.

(G) All parties are required to bring an adequate number of copies of exhibits which they intend to offer into evidence at the hearing. If an exhibit has been prefiled, only three copies of the exhibit are necessary for the court reporter. If an exhibit has not

been prefiled, the party offering it should bring, in addition to the three copies for the court reporter, copies for the five Commissioners, the regulatory law judge, and all counsel.

**IT IS THEREFORE ORDERED:**

1. That the Application to Intervene filed by Adam's Mark Hotel, Alcoa Foil Products (Alumax, Inc.), The Boeing Company, General Motors Corporation, Mallinckrodt, Inc., Procter & Gamble Manufacturing Company and Ralston Purina Company (part of the group collectively known as Missouri Industrial Energy Consumers) on March 24, 1999 is granted.

2. That the Request for Leave to Appear filed by Union Electric Company d/b/a AmerenUE on April 20, 1999 is granted.

3. That the Application to Intervene filed by Friendship Village of South County, Friendship Village of West County, Village North, Cardinal Ritter Institute, and Orchard House Partnership (collectively Retirement Facilities Coalition) on May 3, 1999 is granted.

4. That the procedural schedule shall be amended as follows:

<b>Statement of Issues to be filed by Staff</b>	-	<b>May 18, 1999 (by 3:00)</b>
<b>Statement of Position by all parties</b>	-	<b>May 20, 1999 (by 3:00)</b>
<b>Evidentiary Hearing</b>	-	<b>June 1-3, 1999 (first day at 9:00 a.m.)</b>



5. That this order shall become effective on May 24, 1999.

**BY THE COMMISSION**



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

(S E A L)

Shelly A. Register, Regulatory Law  
Judge, by delegation of authority  
pursuant to 4 CSR 240-2.120(1),  
(November 30, 1995) and Section 386.240,  
RSMo, 1994.

Dated at Jefferson City, Missouri,  
on this 13th day of May, 1999.

ALJ/Secy: Register/Boyce

5-11  
Date Circulated

50-96-14  
CASE NO.

[Signature]  
Lumpkin, Chair

[Signature]  
Crumpton, Commissioner

[Signature]  
Murray, Commissioner

[Signature]  
Schemenauer, Commissioner

[Signature]  
Drainer, Vice-Chair

5-13  
Agenda Date

Action taken: 5-0AA

Must Vote Not Later Than \_\_\_\_\_

**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 13TH day of MAY, 1999.



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