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August 9, 1999

Via Facsimile and Federal Express

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
Truman Building, Fifth Floor
301 West High Street
Jefferson City, MO 65101

FILED

AUG 9 1999

Missouri Public
Service Commission

RE: Union Electric Company (AmerenUE) Docket Nos. EO-96-14
and EM-96-149

Dear Mr. Roberts:

Enclosed for filing with the Commission are an original and fourteen (14) copies of the Initial Post-Trial Brief of the Missouri Industrial Energy Consumers and The Doe Run Company.

Please "file-stamp" the additional copies and mail them back to me in the enclosed, self-addressed stamped envelope. Thank you for your assistance in bringing this filing to the attention of the Commission, and please call me if you have any questions.

Very truly yours,



Diana M. Schmidt

DMS/dv

Enclosures

cc: Parties of record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED
AUG 9 1999
Missouri Public
Service Commission

In the Matter of the Monitoring of the)
Experimental Alternative Regulation Plan) Case No. EO-96-14
of Union Electric Company)

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

**INITIAL POST-TRIAL BRIEF OF THE
MISSOURI INDUSTRIAL ENERGY CONSUMERS AND THE DOE RUN COMPANY**

Pursuant to the briefing schedule established by the Commission's July 19, 1999 order in this case, Adam's Mark Hotel, Alcoa Foil Products (Alumax, Inc.), Anheuser-Busch, Inc., The Boeing Company, Ford Motor Company, General Motors Corporation, Holnam, Inc., Hussmann Refrigeration, ISP Minerals, MEMC Electronic Materials, Inc., Mallinckrodt, Inc., Monsanto Company, Procter & Gamble Manufacturing Company and Ralston Purina Company, collectively referred to as the "Missouri Industrial Energy Consumers" or "MIEC", and in addition the Doe Run Company, hereby submit their Initial Post-Trial Brief.

The MIEC includes many of AmerenUE's largest customers. Its members, and the Doe Run Company, form a substantial part of the industrial and employment base of Missouri. The interests of the MIEC and the Doe Run Company in this case are aligned with those of the residential consumers represented by the Office of the Public Counsel and the other customer intervenors in this case: to help the Commission ensure that AmerenUE properly and promptly shares the revenues pursuant to the Stipulation and Agreement approved in Case No. ER-95-411

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and provides the permanent rate reduction required by the Stipulation and Agreement approved in Case No. EM-96-149.

The MIEC and the Doe Run Company have participated fully in these proceedings. They believe that this case is of great importance, and will set significant precedent for utility regulation. However, they have not presented their own evidence, as the Commission Staff and the Office of Public Counsel have thoroughly presented the issues in this case to the Commission. Through their participation in the hearing and briefing, the MIEC and the Doe Run Company simply wish to emphasize several points: (1) the need for prompt relief for ratepayers; (2) that the Commission retains full authority to consider each specific issue raised herein, unlimited by UE's Experimental Alternative Regulation Plan ("EARP"); and (3) that the EARP exists in the complete absence of a competitive market for electricity in Missouri, and should not be considered as movement toward competition. The MIEC and the Doe Run Company wish to reserve the right to address specific issues in their Reply Brief.

1. The Commission should require prompt relief for ratepayers.

The Commission's statutory obligations are not restricted by the Stipulation and Agreement establishing the EARP; indeed, the Stipulation itself recognizes that it does not restrict the Commission's statutory obligations. A paramount statutory obligation of the Commission to ensure "just and reasonable" rates. § 393.130 RSMo.

Delay in customer receipt of revenue sharing and the permanent rate reductions in inconsistent with establishment of just and reasonable rates. UE has profited from the delay in this case, to the detriment of ratepayers, in two ways: (1) no interest accrues on the third year earnings credit, so that UE has the use of this money until it is credited to customer bills, and (2) no interest accrues on the rate reduction, which began as an accrual beginning September 1,

1998. The MIEC and the Doe Run Company urge the Commission to require prompt refunds and a prompt rate reduction in this case, and to establish procedures in its order deciding this case to avoid future harm to ratepayers in future proceedings under UE's current alternative regulation plan.

2. Missouri statutes give the Commission full authority to consider all issues raised in this case.

In keeping with its statutory duty to establish just and reasonable rates, the MIEC and the Doe Run Company urge the Commission to reject UE's arguments to limit the Commission's authority to decide the contested issues arising under the EARP. UE's main witness regarding interpretation of the EARP, Mr. Donald Brandt, testified in response to questions from Vice-Chair Drainer that the EARP should be interpreted so the Commission does not have authority to decide certain disputes among the parties as to "reasonableness." Tr. 212-213. This interpretation of the EARP would lead the Commission to abdicate legal responsibility to establish just and reasonable rates, and should be rejected.

The Commission always retains the authority to determine reasonableness regarding disputed rate issues, however they arise. The Commission has the power to conduct a full review as it considers each specific issue raised in this case by the parties, and should not defer to UE based on UE's interpretation of the EARP.

3. The EARP should not be considered related to competition.

As UE itself recognizes, the Commission does not have the power to order restructuring of the electric industry in Missouri, Tr. 75, and we do not have the advantage of the marketplace in identifying what prices should be. Tr. 76. Despite this recognition, UE portrays the EARP as a move toward competition and restructuring. Tr. 76, 266-267.

The MIEC and the Doe Run Company submit that the EARP does not move Missouri toward competition, and that in the absence of a competitive marketplace, it provides no ratepayer protections. UE's witness Mr. Benjamin McKnight observed that it is "ironic" that UE's EARP is "going in the opposite direction" and is not as "robust" as those in other states where such plans have been approved, such as California and Pennsylvania. Tr. 372. However, California, Pennsylvania and Illinois referred to by Mr. McKnight, all have electric competition. Missouri has not moved toward competition at all. The potential for harm to ratepayers caused by alternative regulation is diminished where competition exists. However, scrutiny is required where alternative regulation exists in the absence of competitive protections.

At best, the EARP provides UE with an additional incentive to reduce costs – a duty which it already has under the law, and for which it already receives an incentive in the rate of return granted by the Commission. The need for the Commission to protect ratepayers was well expressed by Assistant Attorney General Ronald Molteni in his opening statement during the hearing: only the Commission has the power to protect ratepayers from UE's monopoly power, and until consumers have the protections of a competitive marketplace, the Commission should reject any suggestion that the Commission has "contracted away or abdicated its authority to protect consumers". Tr. 106.

CONCLUSION

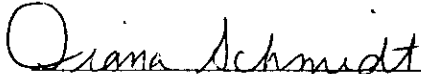
Rate relief to Ameren's customers is long overdue. The MIEC and the Doe Run Company urge the Commission to issue a prompt decision and to protect ratepayers against future delays in receiving refunds.

In considering the evidence in this case, the Commission should closely scrutinize UE's earnings report and proposed revenue sharing, consistent with its duty to protect ratepayers and

ensure just and reasonable rates. The Commission should reject UE's arguments that its authority to subject its revenue sharing plan to such scrutiny is limited by the terms of the EARP. Missouri statutes, and not the EARP, govern the Commission's authority. In the absence of competition, only the Commission can protect ratepayers from UE's monopoly power.

Respectfully Submitted,

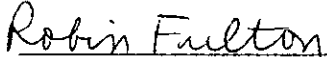
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CERTIFICATE OF SERVICE

The undersigned hereby certify that copies of this Initial Post-Trial Brief of the Missouri Industrial Energy Consumers and The Doe Run Company have been served via first-class, U.S. Mail, postage prepaid on this 9th day of August, 1999, to all parties of record.

Quinn Schmidt