

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

In the Matter of Proposed Rule 4 CSR	)	
240-23.030 Establishing Vegetation	)	
Management Standards for Investor –	)	Case No. EX-2008-0232
Owned Electrical Corporations.	)	

**COMMENTS OF UNION ELECTRIC COMPANY d/b/a AMERENUE**

COMES NOW Union Electric Company d/b/a AmerenUE (AmerenUE or Company), and for its Comments on the Missouri Public Service Commission's (Commission) proposed Rule 4 CSR 240-23.030, states as follows:

**Background**

1. The rule proposed in this docket is, with one minor exception, identical to the rule adopted by the Commission in its Order of Rulemaking issued October 2, 2007 in Case No. EX-2007-0214. But for an administrative filing glitch between the Commission and the Secretary of State's office, the October 2, 2007 rule would today have the force and effect of law.

2. To remedy that administrative filing glitch, the Commission proposes, via this docket, to adopt a rule that is almost identical to the rule it had already adopted,<sup>1</sup> as reflected in the Notice of Proposed Rulemaking published in the *Missouri Register* on January 2, 2008.<sup>2</sup>

3. The Notice of Proposed Rulemaking published in the *Missouri Register* as noted above required that comments be filed respecting the proposed rule on or before

---

<sup>1</sup> With the minor omission noted above and discussed further below.

<sup>2</sup> The Company respectfully requests that official notice be taken of the Comments originally filed in Case No. EX-2007-0214, as well as the testimony at the hearing held in that docket, pursuant to Section 536.070(6), RSMo.

February 4, 2008, and set a rulemaking hearing to occur on that same date. These Comments are filed in response to that Notice.

4. To be clear, the Comments filed by AmerenUE in Case No. EX-2007-0214 are specific to the vegetation management rule that had originally been proposed in Case No. EX-2007-0214. That originally proposed rule was substantially different than the rule ultimately adopted by the Commission in that docket, and was substantially different than the rule which is proposed in this docket. Consequently, the Comments filed by AmerenUE in Case No. EX-2007-0214 are not necessarily applicable to the rule currently before the Commission in this case. However, to the extent issues relating to the provisions of the rule originally proposed in Case No. EX-2007-0214 arise in this docket, AmerenUE would direct the Commission's attention to its previous Comments, the testimony at the previous hearing in Case No. EX-2007-0214, and the analysis that led to adoption of the prior rule on October 2, 2007, as reflected in the Commissions Order of Rulemaking issued on that date.

#### **Current Vegetation Management Rule**

5. In brief, the reasons underlying the Commission's adoption of the final rule on October 2, 2007 remain valid, and the Commission should adopt the rule proposed in this docket, without modification. The Company believes, as the Commission previously found, that the proposed rule appropriately balances the varied and competing interests of both utilities and utility customers in the State of Missouri. The goal of this rulemaking should be to produce a rule that balances the need for safe and adequate electric service with the real financial, aesthetic and environmental costs associated with vegetation management. The proposed rule achieves that balance.

6. As stated in its August 13, 2007 Comments in Case No. EX-2007-0214, AmerenUE believes an important benefit of a good vegetation management rule will be the greater transparency it brings to vegetation management practices. With time, AmerenUE believes this transparency will lead to a better understanding of utility operations, during both severe and normal weather, for the Commission as well as for the general public. No vegetation management practice can prevent all outages from a severe storm, such as those the State of Missouri has experienced over the past two years. Absent draconian measures requiring the removal of every tree which could conceivably fall into a power line,<sup>3</sup> outages from vegetation during storms will occur. The countervailing consideration to that detriment is the inherent value of trees to both the landowner, to the public in general and to the environment. While the rule originally proposed in Case No. EX-2007-0214 undervalued these interests, AmerenUE believes, as did the Commission in adopting a virtually identical rule on October 2, 2007, that this rule balances those interests appropriately.

7. This rule will necessitate the expenditure of significant additional resources in order to comply with its requirements as the rule represents very real and substantial change from AmerenUE's historical vegetation management practices. As the Company stated in its estimate of the cost of compliance, it believes it will spend an additional \$5,100,000 annually to comply with the rule proposed in this docket. Because vegetation management costs are borne by ratepayers, the Company and the Commission must be mindful of the benefit to be achieved given the cost to comply with any vegetation management rule. The rule, as proposed, like the rule previously adopted, appropriately balances those benefits and costs. Indeed, the Commission has not

---

<sup>3</sup> Such wholesale tree removal is neither legally nor politically possible.

previously had any specific vegetation management regulations (other than those requirements that might be ordered on a utility-by-utility basis). This rule, once adopted, will represent a very real change from the Commission's previous utility-by-utility approach and will require AmerenUE, and all Missouri utilities, to make significant changes to their practices. For example, the rule will require all utilities to begin visual line inspections every two years in urban areas and every three years in rural areas, it sets forth minimum radial clearances for distribution conductors from 600 volts and up, it requires notice to property owners prior to planned vegetation management activities, and it requires detailed documentation of utility vegetation management plans and compliance reporting annually, just to list a few of the requirements this rule will impose.

8. While this rule will impose a significant financial burden on utilities and ultimately on ratepayers over the cost of historical vegetation management practices, when viewed against the background of the increasingly severe weather experienced in Missouri over the past few years and the resulting outages, the Company considers the change to be an investment which will benefit all of its customers. In fact, AmerenUE feels strongly enough about the potential benefits of this rule that it has already incorporated its requirements into its 2008 vegetation management practices, even though there was no legal obligation for the Company to do so.

9. As noted above, the rule, as proposed, omits one minor item that was a part of the rule adopted on October 2, 2007. Specifically, the rule fails to include Section (4)(A)(3) from the October 2, 2007 version. The omitted language read "National Electric Safety Code as referred to in 4 CSR 240-18." AmerenUE simply notes this omission but does not believe that it is necessary to add this reference back into the rule.

The National Electric Safety Code sets forth safety standards that are widely recognized and followed in the utility industry and should be an important consideration in the development and implementation of any vegetation management strategy, regardless of whether or not it is specifically set forth in the rule.

10. AmerenUE urges the Commission to adopt the rule as published, and appreciates the opportunity to provide these Comments.

Respectfully submitted,

SMITH LEWIS, LLP

By: **/s/ James B. Lowery**

James B. Lowery, #40503  
Suite 200, City Centre Building  
111 South Ninth Street  
P.O. Box 918  
Columbia, MO 65205-0918  
Phone (573) 443-3141  
Facsimile (573) 442-6686  
[lowery@smithlewis.com](mailto:lowery@smithlewis.com)

**ATTORNEYS FOR UNION ELECTRIC  
COMPANY d/b/a AMERENUE**

UNION ELECTRIC COMPANY,  
d/b/a AmerenUE

**Steven R. Sullivan**, #33102  
Sr. Vice President, General Counsel &  
Secretary

**Thomas M. Byrne**, #33340  
Managing Associate General Counsel

**Wendy K. Tatro**, #60261  
Associate General Counsel  
1901 Chouteau Avenue, MC-1310  
P.O. Box 66149, MC-131  
St. Louis, Missouri 63101-6149

(314) 554-2514 (Telephone)  
(314) 554-4014 (Facsimile)

[tbyrne@ameren.com](mailto:tbyrne@ameren.com)

[wtatro@ameren.com](mailto:wtatro@ameren.com)

Dated: February 1, 2008

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to the following this 1st day of February 2008:

General Counsel Office  
Missouri Public Service  
Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102

Lewis Mills  
Office Of Public Counsel  
200 Madison Street, Suite 650  
P.O. Box 2230  
Jefferson City, MO 65102

Nathan Williams  
Missouri Public Service  
Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102

James C. Swearengen  
Empire District Electric  
Company, The  
312 East Capitol Avenue  
P.O. Box 456  
Jefferson City, MO 65102

Curtis D. Blanc  
Kansas City Power & Light  
Company  
1201 Walnut, 20th Floor  
Kansas City, MO 64106

Diana M. Vuylsteke  
Missouri Industrial Energy  
Consumers  
211 N. Broadway, Suite 3600  
St. Louis, MO 6

/s/ Wendy K. Tatro

Wendy K. Tatro