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May 22, 2002

**Via Federal Express**

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street, Suite 100  
Jefferson City, Missouri 65101

**Re: MPSC Case No. EC-2002-112**

Dear Mr. Roberts:

Enclosed you will find an original and nine copies of Respondents' Reply to Complainants' Response to Respondents' Objections and Motion to Strike Hearsay Contained in Direct Testimony Filed by Complainants.

Please file the original and eight copies of each of this pleading with the Commission and return the extra copy file-stamped to me in the enclosed self-addressed stamped envelope.

If anything further is needed to file this pleading, please let me know.

Yours very truly,

HERZOG, CREBS & MCGHEE, LLP



Michael A. Vitale

MAV/mh  
Enclosure

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

STERLING MOODY, STERLING'S MARKET  
PLACE AND STERLING'S PLACE, I,

Complainants,

v.

AMERENUE, UNION ELECTRIC CO. d/b/a  
AMERENUE, and MIKE FOY, LEROY ETTLING,  
and SHERRY MOSCHNER, as employees of  
AmerenUE,

Respondents.

Case No. EC-2002-112

**RESPONDENTS' REPLY TO COMPLAINANTS' RESPONSE  
TO RESPONDENTS' OBJECTIONS AND MOTION TO STRIKE  
HEARSAY CONTAINED IN DIRECT TESTIMONY FILED BY COMPLAINANTS**

Come now respondents, and for their Reply to Complainants' Response to Respondents' Objections and Motion to Strike Hearsay Contained in Direct Testimony Filed by Complainants, state as follows:

1. Respondents' Objections and Motion to Strike Hearsay (the "Objections") was filed on May 2 and served on complainants by hand-delivery the same date. Pursuant to 4 CSR 240-2.080(15), respondents' response to the Objections was due on May 13.
2. On May 21, respondents received a copy of that response by mail, along with complainants' cover letter to the PSC. Both the letter and the response were dated May 17. However, the envelope which contained the response was postmarked May 20, as shown on Exhibit A attached hereto.
3. The response was accompanied by a request that complainants be allowed to file their response "out of time." No reasons were given for the late filing and

no argument was made as to why leave should be granted. Consequently, the Commission should refuse to accept the response as untimely and reject it out of hand.

4. Complainants' response is actually no response at all. Rather than respond to the Objections, complainants instead ask that a ruling be deferred, and that complainants not be required to respond "in a substantive manner," until "the appropriate time." The response is thus no more than a request for an extension for an indeterminate period of time.

5. Complainants also contend that the hearsay testimony they have offered is "corroborated, verified and substantiated" by "information" contained in the depositions of three AmerenUE employees. This "information" is not identified nor are any portions of the depositions attached to the response.

6. Complainants also imply that respondents' rebuttal testimony may change the hearsay nature of their direct testimony. Hearsay is hearsay, however. No amount of additional hearsay from other witnesses, whether in deposition or in rebuttal testimony, can cure that deficiency. As a result, there is no reason to delay ruling on the Objections. In fact, a ruling at this time would be beneficial to the parties so as to put everyone on notice as to what testimony the Commission will consider at the time of the hearing of this matter.

WHEREFORE, respondents respectfully request that respondents' Objections be sustained for the reasons set forth herein.

HERZOG, CREBS & McGHEE, LLP

By:



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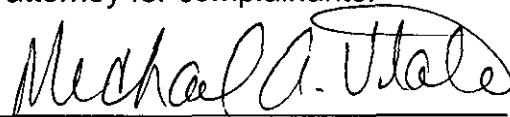
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Union Electric Co d/b/a AmerenUE,  
Mike Foy, Leroy Ettling and Sherry  
Moschner

**Certificate of Service**

The undersigned hereby certifies that a copy of Respondents' Reply to Complainants' Response to Respondents' Objections and Motion to Strike Hearsay Contained in Direct Testimony Filed by Complainants was mailed first class, postage prepaid this 22nd day May 2002 to Office of Public Counsel, P.O. Box 7800, Jefferson City, Missouri 65102, Office of General Counsel, Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102 and Freeman Bosley, Jr., 1601 Olive Street, First Floor, St. Louis, Missouri 63103-2344, attorney for complainants.



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EXHIBIT A