

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

In the Matter of the Application of UNION	)	
ELECTRIC COMPANY d/b/a AmerenUE	)	
for an order authorizing the Applicant to issue	)	
up to \$436,585,000 aggregate principal amount	)	Case No. EF-2004-0205
of First Mortgage Bonds to secure its obligations	)	
relating to certain outstanding revenue bonds	)	
issued by the State Environmental Improvement	)	
and Energy Resources Authority of the State of	)	
Missouri in connection with insuring/credit	)	
enhancing such revenue bonds and to amend	)	
outstanding Loan Agreements relating	)	
to the revenue bonds.	)	

**REPLY TO STAFF RECOMMENDATION**

COMES NOW, Union Electric Company d/b/a AmerenUE ("AmerenUE"), by and through its counsel, and states as follows in reply to the Staff Recommendation dated January 23, 2004 (the "Staff Recommendation") filed with the Missouri Public Service Commission (the "Commission"):

1. The Staff Recommendation approved AmerenUE's October 31, 2003 Application in this case, subject to conditions set forth in a Memorandum dated January 23, 2004, attached to the Staff Recommendation (the "Memorandum"). The Staff characterizes the conditions as "routine", except for conditions which read as follows:

- "4. That the Company shall file future finance applications at least 120 days prior to its desired order date from the Commission.
- 5. That the Company shall notify Staff as soon as the Company begins serious consideration of a transaction that would require Commission approval."

Memorandum, page 4. AmerenUE vigorously objects to the imposition of conditions 4. and 5. in any Order of the Commission in this case.

2. Indeed, conditions 4. and 5. are not routine. Succinctly stated, conditions 4. and 5. circumvent the rules and regulations of the Commission for the review and approval of financing applications. In seeking approval of financing transactions, AmerenUE and other utilities under the jurisdiction of the Commission rely on the statutory framework of Sections 393.180 - 393.200 of the Missouri Revised Statutes and 4 CSR 240-2.060, 4 CSR 240-3.120 and 4 CSR 240-3.220 of the Rules of Practice and Procedure of the Commission (the "Commission Rules"). There is nothing in the Commission Rules which provide that an applicant must file an application at least 120 days prior to a desired order date or that an applicant shall notify Staff as soon as the applicant begins "serious" consideration of a proposed financing. The Commission cannot through an Order in a financing case establish a new Commission Rule. The Staff's recommendation of conditions 4. and 5. is ill-advised and unfounded, and clearly better suited for a rulemaking proceeding.<sup>1</sup>

3. The Commission Rules do allow for expedited treatment of applications before the Commission pursuant to 4 CSR 240-2.080(16). The record in this case is clear that AmerenUE sought such expedited treatment (AmerenUE's Motion for Expedited Treatment dated October 31, 2003), the Staff objected (Staff's Response to AmerenUE's Motion for Expedited Treatment dated November 10, 2003) and AmerenUE proposed a compromise:

"Respecting the Staff's attention to other financings and dockets . . . AmerenUE would be amenable to a schedule such that the Staff would file its Recommendation on or before January 15, 2004 (a 76 day review period) and the Commission would issue an Order on or before January 30, 2004 (which would become effective by no later than February 10, 2004)."

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<sup>1</sup> If the Staff would initiate such a rulemaking proceeding, AmerenUE would contest proposed rules similar to conditions 4. and 5. for some of the reasons explained herein.

Pages 5-6 of AmerenUE's Reply to Staff's Response to Motion for Expedited Treatment dated November 17, 2003. In the Commission's Order Granting Motion for Expedited Treatment and Establishing Date for Staff to File Recommendation dated December 2, 2003, the Commission expressly found: "AmerenUE has shown good cause for the Commission to promptly act on its application." Page 3 of Commission's Order. The Commission's finding of good cause was based on the factual assertions of the parties in the pleadings before the Commission. Conditions 4. and 5. are simply a means for Staff to cast aside the Commission's ability and power in the future to make decisions as to whether expedited treatment is warranted in particular circumstances.

4. The Staff in the Memorandum attempts to impose conditions 4. and 5. based in part on "AmerenUE's lack of consideration of Staff's need for time to review transactions submitted to this Commission for approval, especially when the Company appears to have started discussions with third parties about this transaction as early as May 2, 2003". Memorandum at page 3. The Staff suggests that this finding of early discussions with third parties (which were part of AmerenUE's analysis and evaluation of alternatives with respect to the treatment of the debt in the instant case) is a result of AmerenUE's January 7, 2004 response to Staff Data Information Request 3806. However, the Staff itself recognizes that AmerenUE in its October 31, 2003 Application asserted that the proposed transaction was "(b)ased on discussions over the last several months with broker-dealers and insurers". Memorandum at page 3. Why the Staff believes that AmerenUE should involve the Staff at early stages of financing discussions before a decision has been made to proceed is unclear. Moreover, the standard in Staff's condition 5. to notify Staff when AmerenUE begins "serious" consideration of a

transaction is vague at best. Certainly reasonable minds can differ when “serious” consideration would begin. Also, the record is more than clear that AmerenUE explicitly discussed with Staff the filing of the Application and the proposed timing of the transaction over a week prior to the filing of the Application; included additional information in the Application and reworked its proposed schedule to account for what AmerenUE believed to be adequate time for the Staff to review the Application on an expedited basis; and as stated previously, further compromised the schedule when Staff later objected. AmerenUE’s Reply dated November 17, 2003 at pages 3, 5-6. The imposition of conditions 4. and 5. is simply not supported by the record in this case.

5. The imposition of conditions 4. and 5. would also require AmerenUE to incur unnecessary and potentially significant costs in some financing transactions that would have to be borne by AmerenUE’s customers. Financing transactions are typically very time sensitive. Interest rates and AmerenUE’s cash flow, for example, are constantly fluctuating. The imposition of conditions 4. and 5. would also result in reducing cost savings in instances of refinancing outstanding debt prior to maturity. The imposition of an arbitrary 120 day filing requirement would limit AmerenUE’s ability to quickly and efficiently take advantage of favorable market conditions and effectively manage its financing requirements, to the ultimate detriment of its customers.

6. AmerenUE recognizes that the review of financing applications poses a burden on Staff that can sometimes be overwhelming. For its part, AmerenUE will continue to make efforts in the future to provide the Staff as much time as it can to review proposed financing applications. The Commission clearly should reserve the right to establish deadlines in individual financing proceedings that will afford the Staff sufficient

time to do its job, given the other demands facing the Staff at that particular time. What the Commission should not do, however, is limit its own discretion by imposing an arbitrary 4-month filing requirement for all future AmerenUE financing cases, as the Staff has recommended.

WHEREFORE, AmerenUE respectfully requests that the Commission issue an Order in this case authorizing AmerenUE to proceed in accordance with the authority sought in the October 31, 2003 Application, without conditions 4. and 5. of the Memorandum to the Staff Recommendation.

Respectfully submitted,

UNION ELECTRIC COMPANY

d/b/a AmerenUE

By Ronald S. Gieseke

Its Attorneys

Ronald S. Gieseke, MBE #31054

Ronald K. Evans, MBE #22597

Ameren Services Company

One Ameren Plaza

1901 Chouteau Avenue (MC 1310)

P.O. Box 66149

St. Louis, MO 63166-6149

(314) 554-4198; [rgieseke@ameren.com](mailto:rgieseke@ameren.com)

(314) 554-2156; [revans@ameren.com](mailto:revans@ameren.com)

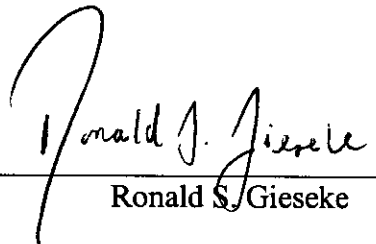
(314) 554-4014(fax)

Dated at St. Louis, Missouri this 28<sup>th</sup> day of January, 2004.

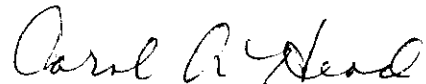
**VERIFICATION**

STATE OF MISSOURI     )  
                                  )  
CITY OF ST. LOUIS     )     SS

On this 28<sup>th</sup> day of January, 2004, before me appeared Ronald S. Gieseke, Associate General Counsel for Ameren Services Company, to me personally known, who being by me first duly sworn, states that he is duly authorized to execute Union Electric Company's Reply to Staff Recommendation in Case No. EF-2004-0205.

  
\_\_\_\_\_  
Ronald S. Gieseke

Subscribed and sworn to before me, a notary public, on this 28<sup>th</sup> day of January, 2004.

  
\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

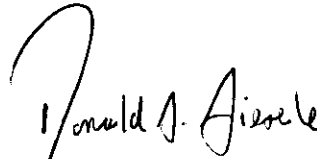
CAROL A. HEAD Notary Public - Notary Seal STATE OF MISSOURI St. Charles County My Commission Expires Sept. 23, 2006
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed to the following  
counsel on this 28<sup>th</sup> day of January, 2004.

Dennis L. Frey  
Senior Counsel  
Attorney for the Staff of the  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102  
e-mail: [dennyfrey@psc.state.mo.us](mailto:dennyfrey@psc.state.mo.us)

Office of Public Counsel  
Governor Office Building  
200 Madison Street, Suite 650  
Jefferson City, MO 65101

A handwritten signature in black ink, appearing to read "Ronald S. Gieseke", written over a horizontal line.

Ronald S. Gieseke