

In the Matter of the Cancellation of the)
Certificate of Convenience and Necessity) File No. ED-2019-0309
Originally Approved in File No. EA-2005-0180)
and the LTS Rate Schedule.)

COMES NOW Union Electric Company d/b/a Ameren Missouri ("Company" or "Ameren Missouri"), pursuant to 4 CSR 240-2.080(13), and hereby responds to the Objection to [Staff] Affidavit and Objection to Ameren Affidavit (collectively, the "Objection") filed by the Midwest Energy Consumers Group ("MECG") on June 24, 2019, and for its response states as follows:

2. As such, MECG’s Objection, which invokes a claimed “statutory right to cross-examine” the affiant (which would have to be based on the APA and specifically, § 536.070(2), RSMo. (2016)) fails as a matter of law because there is no statutory right to cross-examine anyone in a noncontested case. Moreover, by its express terms, §536.070 only applies to contested cases: “In any contested case: . . . (2) Each party shall have the right to call and examine witnesses . . . [and] to cross-examine opposing witnesses . . .”

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substantial and competent evidence at all, as outlined in the Company's above-referenced Response. Second, as just explained §536.070 (including subdivision (12)) does not apply to this noncontested case.

4. This Commission has previously rejected the same argument made by the same party. *See Order Denying MECG's Objections and Request for Hearing, In the Matter of Kansas City Power & Light Company's Request for Authority to Implement al. a General Rate Increase for Electric Service*, 2015 WL 5785591 (Sept. 29, 2015) ("Approval of the compliance tariffs is not a contested case, so the legal requirements of a contested case in Sections 536.140 and 536.070(12) are not applicable.").¹

5. MECG's Objection should be ignored as it is not well-taken as a matter of law and imposes no constraint on the Commission's ability to resolve this noncontested case without a hearing.

WHEREFORE, Ameren Missouri respectfully requests the Commission issue its order overruling Consumers' Objection.

Respectfully submitted,

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¹ MECG appealed the Commission's rejection of its request for a hearing and objection, and MECG's appeal was dismissed as moot. However, the Court of Appeals made very clear in its opinion finding that the appeal was moot that in a noncontested case any contested case procedures in Chapter 536 do not apply. *Midwest Energy Consumers' Group v. Pub. Serv. Comm'n*, 509 S.W.3d 757, 780-87 (Mo. App. W.D. 2017)

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served on the Staff of the Commission and the Office of the Public Counsel via electronic mail (e-mail) on this 3rd day of July, 2019.

/s/ James B. Lowery
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