

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

In the Matter of the Tariff Filings of Union)
Electric Company, d/b/a Ameren Missouri, to) Case No. ER-2011-0028
Increase Its Revenues for Retail Electric Service.)

RESPONSE TO STAFF’S MOTION FOR CLARIFICATION

COMES NOW Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri”), by and through counsel, and hereby responds to the “Motion for Clarification” filed by the Staff at approximately 5:08 p.m. April 21, 2011.

1. There is a question regarding whether the Staff’s interpretation of the rules governing discovery is in fact correct, but whether it is or is not correct is beside the point.

2. Presumably because the Staff believed that Ms. Mantle was compelled to attend the noticed deposition, the Staff moved to quash the Notice of Deposition. The Staff failed to raise any arguments in opposition to the Notice other than the Staff’s claim that it was “unnecessary, oppressive, harassing and will obstruct and impede Staff’s preparation for the evidentiary hearing in this matter that begins the following day.” The Company’s response already demonstrated that those arguments did not hold water. By not raising this new ground for quashing the notice, Staff has waived the arguments made in its Motion for Clarification. On that basis alone, the Commission should make clear its expectation that the Staff produce Ms. Mantle for deposition.

3. Moreover, the practice before the Commission has been for parties to produce their witnesses for deposition based upon notice under Rule 57.03(a). For example, the Company flew its return on equity expert in from Massachusetts to St. Louis so that the Staff did

not need to do what a technical application of the rules and statutes would have required: a notice, a subpoena issued by a proper authority in Massachusetts, and personal service of the same on the witness, not to mention a requirement for the Staff (and any other party who wants to participate) to travel to Massachusetts for the deposition. All of the other depositions taken in this case and indeed the last three Ameren Missouri rate cases, were handled in the same manner and fashion – by the issuance of a notice to the witness.

4. For no apparent reason other than that the Staff did not get its way when it sought to quash the Notice of Deposition directed to Ms. Mantle, the Staff has decided to take a different tact in an attempt to avoid the legitimate questions the Company has for Ms. Mantle, as outlined in the Company’s Response to Staff’s Motion to Quash.

5. The Staff has indicated that if it is the Commission’s intention that she be produced for deposition without a subpoena then the Staff will comply. The Company requests that the Commission make that intention clear.

6. If, however, the Commission desires to initiate a practice where subpoenas will be required under such circumstances, then the Company will issue a second notice to Ms. Mantle at a time and place suitable to counsel for the Company in view of the hearing schedule that begins next week, will obtain a subpoena from the Commission’s Secretary, and will have the Cole County Sheriff serve it on Ms. Mantle, together with any witness and mileage fees required by statute.¹

¹ Presumably Staff will seek to avoid this result by citing 4 CSR 240-2.100(2), which does not authorize the issuance of a subpoena within 20 days of the hearing absent good cause shown. The Company’s Response to Staff’s Motion to Quash establishes such good cause. To the extent required, the Company hereby requests that the Commission make a good cause finding under the referenced rule (based upon the Company’s prior Response) and direct its Secretary to issue the necessary subpoena upon the Company’s request, if such issuance becomes necessary.

WHEREFORE, the Company requests that the Commission clarify its expectation that Ms. Mantle be produced for deposition, pursuant to the previously served notice or, if such clarification is not provided, that it find good cause for the issuance of a subpoena upon the Company's request pursuant to a separate notice that will be provided pursuant to rule.

Respectfully submitted,

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**ATTORNEYS FOR
UNION ELECTRIC COMPANY, d/b/a
AMEREN MISSOURI**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response was served via e-mail on counsel of record for all parties of record in this case, on this 22nd day of April, 2011.

/s/James B. Lowery
James B. Lowery