BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a AmerenUE for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in the Company's Missouri Service Area.	)))))	Case No. ER-2007-0002

AMERENUE'S REPLY AND RESPONSE TO OCTOBER 10, 2006 PLEADINGS OF MIEC, AARP/CCM AND PUBLIC COUNSEL AND RENEWAL OF REQUEST FOR APPROVAL OF NOTICE TO CUSTOMERS

COMES NOW Union Electric Company d/b/a AmerenUE (AmerenUE or Company) and, pursuant to 4 CSR 240-2.080(15), hereby responds and replies in this single filing to the three filings made on October 10, 2006, respectively (1) by the Missouri Industrial Energy Consumers (MIEC), (2) by AARP and CCM, and (3) by the Office of Public Counsel. The filing by MIEC is denominated a "Response In Opposition" to the Company's Motion filed on September 29, 2006,[1] and the other two are designated in part at least as "Motions" but also address the Company's filing of September 29, 2006. The Company previously, on October 9, 2006, filed its Reply to State of Missouri's Response in Opposition, addressing the same September 29, 2006, filing, and asks that the Commission consider that filing along with this one on the issues addressed.[2] All referenced filings address the core issue of whether the Commission should consider the merits of the Company's proposed Fuel Adjustment Clause (FAC) tariff in this case.

1. The Company has done precisely what it said it would do. It requested an FAC in connection with its initial filings in this rate case, at a time when no rules governing applications for an FAC existed. At that moment, everyone was fully on notice that AmerenUE was requesting an FAC as part of this general rate case. Then, just eight days after rules were promulgated, it made

[1] Although filed on October 9, 2006, the Commission docketed the filing on October 10, 2006.
[2] Moreover, most of the arguments made in these parties' October 10 filings are restatements of arguments they made in their August 31 filings, which were addressed fully in the Company's September 11, 2006 Response. The Company also asks the Commission to consider its September 11 filing on these issues.

filings in full compliance with those rules. No one contends that the filings it has made fail to comply with those rules. No one contends that there exists any actual prejudice under the circumstances existing here where they have more than 10 weeks before direct testimony is due, and five and a half months before hearings will occur, to consider, analyze, and respond to the details of the Company's FAC request. Although the proposed "transition provisions" in the proposed rules did not end up in the final rules, the Company fully complied with those proposed transition provisions when it filed this rate case, which at that time provided the only guidance relating to requests for an FAC beyond that contained in the statute.

2. FAC opponents – the State, AARP/CCM, MIEC – all continue to make technical and incorrect procedural arguments in opposition to the Company's FAC request, as has already been addressed in prior pleadings as referenced above. Acceding to their position would deprive the Commission of the ability to consider the merits of a proper FAC request made under Senate Bill 179 (SB 179) and pursuant to the rules the Commission just issued, after much hard work.

3. The Commission has full power and authority to consider the Company's FAC request on the merits. This has already been explained in full in the Company's September 11, September 29, and October 9 filings, and with the exception of a new "pancaking" argument raised by AARP/CCM and MIEC in their October 10 filings,[3] not a single new argument is made.

4. Basic principles of fairness support appropriate consideration of the merits of the Company's FAC request in this general rate case, just as was intended by SB 179. Simply stated, as previously addressed, SB 179 contemplated that utilities could request an FAC before rules were issued (*see* last sentence, Section 386.266.9, RSMo) – the Company did so; SB 179 required that rules be promulgated before an order approving an FAC could be issued (*see* first sentence, Section

[3] The Company will address and dispose of this argument below.

386.266.9, RSMo) – those rules were issued September 21; and once rules exist, one would expect compliance with the rules – the Company did so eight days later on September 29, 2006.

4. AARP/CCM and MIEC try to recast earlier procedural arguments (and make no attempt to rebut the Company's effective dismantling of all of their earlier arguments in prior pleadings) by now coming up with a new argument. This new argument alleges that filing an FAC tariff in compliance with the Commission's SB 179 rules improperly "pancakes" general rate increase request number two on top of pending general rate increase request number one.

5. This new argument grossly misapplies and distorts the anti-pancaking principles which have been applied in other jurisdictions. As the authority *they* cite to makes clear, pancaking occurs when a utility files a general rate increase case seeking higher rates (case number one) and before case number one is decided, files a second general rate increase case (case number two) seeking additional rate increases beyond those sought in case number one. Here, there is *one general rate increase request*. The only tariffs relating to the Company's general rate increase request were filed on July 7 and they sought at that time and seek today a rate increase of approximately $361 million. The FAC request, now detailed in the FAC tariff filed on September 29, does not seek a rate increase. Rather, it creates a mechanism pursuant to which changes in fuel and transportation prices – increases or decreases – would later, after this rate case is over, be reflected in rates via later rate adjustment filings.

6. Any so-called anti-pancaking principles, even if *arguendo* they were to exist under Missouri law,[4] obviously does not apply here, where we are dealing with a new statute which authorizes a request for an FAC before rules are issued, and where those new rules implementing the statute had not been promulgated when the rate case was filed, although the Company requested

[4] A principle never established in Missouri, as evidenced by the total failure of AARP/CCM and MIEC to cite to any Missouri authority on this point, and in particular, MIEC's reliance on a specific Pennsylvania *statute* which of course has no force in Missouri.

an FAC and requested that the Commission establish such rules for this case simultaneously with its original filing.

7. For these reasons, and for the reasons discussed in detail in the Company's September 11, September 29, and October 10 filings relating to these issues, the Company renews its prayer reflected in its September 29 Motion and further requests that all relief sought by the pleadings filed by the Office of the Public Counsel, MIEC, and AARP/CCM in their October 10, 2006 pleadings be denied. [5]

8. Finally, the Company wishes to bring one additional matter to the Commission's attention. On August 30, 2006, the Company filed a Response to Public Counsel's Recommendations for Notice and Local Public Hearings. In its August 30 filing, the Company pointed out that the proposed rules (and now, the final rules) respecting SB 179 required that the notice typically sent out prior to local public hearings in rate cases include information relating to any FAC request that was being made in the case. To that end, the Company requested that the notice proposed by Public Counsel be expanded to include this additional information. Moreover, in compliance with the final SB 179 rules (specifically, the provision to be codified at 4 CSR 240-3.161(2)(A)), the Company submitted a proposed notice as Attachment A to Schedule MJL-2 attached to the Direct Testimony of Martin J. Lyons, Jr., filed on September 29, 2006.

9. Although the precise dates of local public hearings have not been determined with specificity, the Commission's Order Adopting Procedural Schedule and Test Year indicates the local public hearings will be held sometime during January, 2007. In order for the Company to provide a timely and economical notice to customers as part of its normal, ordinary course of business billing processes, the Commission needs to approve the notice to be sent by October 31, 2006. Approval by that date will allow notices to be sent during billing cycles occurring between

[5] By granting the relief sought, Staff's "Motion for Clarification" filed on October 10, 2006 becomes moot as well.

November 15 and December 15, 2006, which is the time frame within which at least Public Counsel had previously indicated to the Company would be the appropriate time frame for providing the notices. Consequently, the Company respectfully suggests that the Commission should grant the relief sought by the Company in its September 29 Motion and herein, approve the form of notice requested by Public Counsel, with the supplementary provisions relating to the Company's FAC request, as proferred by the Company (set out in full as Attachment A to Schedule MJL-2 to the Direct Testimony of Martin J. Lyons, Jr. filed September 29, 2006), and that it should do so no later than October 31, 2006 in order to allow the notices to be timely given.

Respectfully submitted,

Dated: October 13, 2006

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via e-mail, to the following parties on the 13th day of October, 2006.

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