



Missouri Public Service Commission

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February 28, 2000

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FILED<sup>3</sup>

FEB 28 2000

Missouri Public  
Service Commission

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

**RE: Case No. EM-96-149 - In the Matter of the Application of Union Electric Company for an Order Authorizing: (1) Certain Merger Transactions Involving Union Electric Company; (2) the Transfer of Assets, Real Estate, Leased Property, Easements and Contractual Agreements to Central Illinois Public Service Company; and (3) In Connection Therewith, Other Related Transactions.**

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and fourteen (14) conformed copies of a **STAFF REPLY TO UNION ELECTRIC COMPANY'S RESPONSE.**

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Steven Dottheim  
Chief Deputy General Counsel  
(573) 751-7489  
(573) 751-9285 (Fax)

Enclosure  
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>3</sup>

FEB 28 2000

Missouri  
Service Commission

Case No. EM-96-149

In the Matter of the Application of Union Electric )  
Company for an Order Authorizing: (1) Certain Merger )  
Transactions Involving Union Electric Company; (2) the )  
Transfer of Certain Assets, Real Estate, Leased Property, )  
Easements and Contractual Agreements to Central Illinois )  
Public Service Company; and (3) In Connection )  
Therewith, Certain Other Related Transactions )

**STAFF REPLY TO UNION ELECTRIC COMPANY RESPONSE<sup>1</sup>**

Comes now the Staff of the Missouri Public Service Commission (Staff) in reply to Union Electric Company's Response To Staff Motion For Commission Order (Response) filed on February 22, 2000. In reply, the Staff states as follows:

1. Of the options presented by Union Electric Company (UE) in its February 22, 2000 Response, the Staff believes that the best approach, given the matters discussed by UE, would be for the Commission to issue Orders directing implementation to commence on the following dates: (1) third year sharing credits amounting to \$28,375,000 to be implemented commencing April 1, 2000; (2) the permanent rate reduction amounting to \$16,321,000 to become effective April 1, 2000; and (3) the excess revenues/rate reduction credits to be implemented commencing May 1, 2000. The Staff also believes that the technical meeting noted by UE involving all parties should occur as soon as possible for the purpose of advising and discussing with other parties how UE and the Staff have sought to effectuate the terms of the Stipulation And Agreements in Case Nos. EO-96-15 and EM-96-149 and so as to attempt to address any questions or concerns of the parties.

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<sup>1</sup> This same pleading is being filed concurrently in Case No. EO-96-14, Case No. EO-96-15 and Case No. EM-96-149, which are not consolidated cases.

2. The work preparatory to the actions identified by UE for April 1, 2000 and May 1, 2000 are necessary and should occur. Nonetheless, no one should have any false expectation regarding what will actually occur on April 1, 2000 and May 1, 2000. It would appear that the crediting of the third year sharing credits, the implementation of the rate reduction and the crediting of the excess revenues/rate reduction credits will not occur on these dates.

UE in its February 22, 2000 Response states, as follows:

. . . It is imperative that the Commission and the other Parties to this matter recall that it is the Company's strongly held position, that "effectuation" of the third year sharing credit and commencement of the rate reduction, as requested by the Staff should not be ordered. As we have argued, such an order would be unlawful because the underlying decision of the Commission determining what the third year credit should be is unlawful, and the Company is entitled to a stay of these proceedings pending its appeal of that decision. By this response, we do not waive our rights to appeal that decision, to seek a stay of these proceedings, or to pursue any other relief we deem appropriate.

3. On February 24, 2000, Union Electric Company (UE) filed a Petition For Writ Of Review in the Circuit Court Of Cole County respecting the Commission's third year sharing credits Order of December 23, 1999. (The Commission denied UE's Application For Rehearing Of Commission's Order Of December 23, 1999 And For A Stay on January 25, 2000.) UE challenges the lawfulness and reasonableness of the Commission's Order directing third year sharing credits amounting to \$28,375,000 rather than in the amount of \$26,085,000. Among other things, UE asserts in its Petition For Writ Of Review that "[t]he Commission's [December 23, 1999] Order is unlawful and unreasonable, and is not supported by substantial and competent evidence on the record as a whole, and violates the Missouri and United States Constitutions, for the reasons set forth in Union Electric's Application for Rehearing."

UE states in its Petition For Writ Of for the Review that “[a]s set forth in a forthcoming Petition for a Stay, Union Electric also requests that this Court enter a stay of the [Commission’s December 23, 1999] Order, pending the outcome of this appeal.” Although UE does not indicate why it did not jointly file its Petition For A Stay, presumably UE is waiting to file such Petition For A Stay (or Petitions For Stays) until the Commission issues Orders directing UE to commence, on dates certain, (1) the crediting of the third year sharing credits of the first experimental alternative regulation plan from Case No. ER-95-411, (2) the reduction in permanent rates based on the three-year average of the weather normalized sharing credits of the first experimental alternative regulation plan as provided for in Case No. EM-96-149 and on the basis of the rate design determined in Case No. EO-96-15 and (3) the crediting, “pursuant to the same procedures as the Sharing Credits in Case Nos. ER-95-411 and EO-96-14,” of the excess revenues/rate reduction credits respecting the excess revenues collected by UE from September 1, 1998 to the date the Case No. EM-96-149 permanent rate reduction goes into effect. (Ex. 13, Appendix B, Attachment 1, page 9 in Case No. EO-96-14; i.e., page 6 of the Stipulation and Agreement in Case No. EM-96-149).

Wherefore the Staff replies to Union Electric Company’s Response To Staff Motion For Commission Order and requests that the Commission issue Orders directing that (1) third year sharing credits in the amount of \$28,375,000 be credited to customers commencing April 1, 2000, the Order to be issued by the Commission in Case No. EO-96-14; (2) UE file tariffs effectuating a permanent rate reduction in the amount of \$16,321,000 effective April 1, 2000, the Order to be issued by the Commission in Case No. EM-96-149 and in Case No. EO-96-15; and (3) excess revenues/rate reduction credits covering the period September 1, 1998 to the effective

date of the permanent rate reduction be implemented commencing May 1, 2000, the Order to be issued by the Commission in Case No. EM-96-149.

Respectfully submitted,

DANA K. JOYCE  
General Counsel




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Steven Dottheim  
Chief Deputy General Counsel  
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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 28th day of February 2000.



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CASE NOS. EM-96-149  
February 28, 2000**

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