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June 27, 2001

Via Facsimile and Federal Express

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102-0360

Re: Case No. EM-96-149

Dear Judge Roberts:

Enclosed for filing in the above-referenced case are an original and fourteen (14) copies of the Missouri Industrial Energy Consumers' Response in Opposition to Emergency Motion of Union Electric Company to Temporarily Stay Expiration of the EARP and to Establish a Schedule for Further Proceedings and For Expedited Treatment. Judge Register has informed me that due to the expedited schedule in this proceeding, she will allow this pleading to be filed by facsimile on the condition that an original and fourteen copies are also filed by overnight mail. Please file-stamp the additional copy and return it to me in the enclosed, self-addressed stamped envelope.

Thank you for your assistance in bringing this filing to the attention of the Commission.

Very truly yours,



Diana M. Vuylsteke

DMV:

Enclosures (15)

cc: All parties on the Commission's service list (by facsimile)

FILED²

JUN 27 2001

Missouri Public
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²

JUN 27 2001

Missouri Public
Service Commission

In the matter of the Monitoring 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, Lease Property, Easements, and)
Contractual Agreements to Central Illinois)
Public Service Company; and (3) In Connection)
Therewith, Certain Other Related Transactions.)

Case No. EM-96-149

**MISSOURI INDUSTRIAL ENERGY CONSUMERS'
RESPONSE IN OPPOSITION TO EMERGENCY MOTION OF
UNION ELECTRIC COMPANY TO TEMPORARILY STAY
EXPIRATION OF THE EARP AND TO ESTABLISH A SCHEDULE
FOR FURTHER PROCEEDINGS AND FOR EXPEDITED TREATMENT**

Pursuant to the Commission's June 26 Order in this case, Adam's Mark Hotel, Alcoa Foil Products, Anheuser-Busch, The Boeing Company, Ford Motor Company, General Motors Corporation, Holnam, Hussmann Refrigeration, ISP Minerals, Mallinckrodt, Inc., MEMC Electronic Materials, Monsanto Company, Precoat Metals, Procter & Gamble Manufacturing and Ralston Purina, hereafter referred to as the Missouri Industrial Energy Consumers ("MIEC"), respond to the Emergency Motion of Union Electric Company ("UE Motion") and respectfully request that the Commission deny the UE Motion.

The MIEC and all UE customers will be irreparably harmed if UE's Motion is granted. Excessive electric rates harm Missouri business and the Missouri economy, as well as residential ratepayers. UE is overearning at ratepayer expense every day that the Staff Complaint is delayed. The EARP does not prevent UE from overearning and does not provide significant relief given the possible magnitude of such overearnings. If UE succeeds in blocking the Commission Staff from bringing a Complaint, ratepayers will be deprived of any adequate remedy for the harm caused by excessive rates.

The Commission should reject UE's last minute attempt to rush the Commission into a decision to block the Complaint by manufacturing an artificial "emergency". UE has known for months that the Staff intended to bring a Complaint upon expiration of the EARP. The Commission authorized the Commission Staff to file such a Complaint in its March 8, 2001 *Order Authorizing Earnings Investigation Filing July 1, 2001*. Now, less than one week before the EARP is due to expire, UE seeks to push the Commission into ruling on an "emergency" basis and in doing so frustrates the parties' ability to present evidence and arguments on the Motion. Given the Commission's March 8, 2001 Order and the amount of time UE has known a Complaint would be filed, there is no reasonable basis for UE to seek emergency relief.

The Commission should reject UE's request for an Order to extend the EARP. Contrary to UE's assertion that the Commission may enter into an "agreement" with UE to extend the EARP, the Commission ruled in its March 8, 2001 Order that continuation of the EARP required agreement of the interested parties. The Commission ruled that it was reasonable to establish a case for the purpose of rate reductions *immediately* following expiration of the EARP.

The Commission should also reject UE's attempt to silence the Commission Staff. Section 386.390 RSMo. provides the right to file a Complaint with the Commission, and is intended to permit a case for relief in precisely these circumstances. There is no legal basis for the Commission to bar the Staff from filing a Complaint.

The MIEC urges the Commission to deny UE's Motion in its entirety. However, if the Commission decides to grant UE's request to stay expiration of the EARP, the MIEC requests that the Commission (1) permit the Staff's Complaint to be filed and (2) establish proceedings to rule on the Complaint and make any rate reduction effective on or before January 1, 2002 in order to minimize additional harm to ratepayers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been sent by facsimile to all counsel of record as shown on the Commission's official service list this 27th day of June, 2001.

Diana Vuylsteke