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February 21, 2001

Mr. Dale Hardy Roberts
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Missouri Public Service Commission

RE: Case No. EO-2000-580

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of **STAFF'S REPLY BRIEF.**

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,

Dennis L. Frey

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DLF:ccl
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of an Investigation into an Alternative Rate Option for Interruptible Customers of Union Electric Company d/b/a AmerenUE.	))))	Case No. EO-2000-580

STAFF'S REPLY BRIEF

I. INTRODUCTION

The Staff is strongly opposed to the interruptible rate concept proposed by MEG Interruptibles ("MEG"). In its Reply Brief, Staff will address only one item in each of the initial briefs of MEG and Union Electric Company d/b/a AmerenUE ("UE" or "Company"). First, the Staff will address the question raised by MEG regarding whether curtailments should be mandatory rather than voluntary. Second, the Staff will turn to UE's discussion of whether curtailments should be restricted by stating various operating conditions under which curtailments are allowed, or by simply putting a limit on the number of individual curtailments, the cumulative duration of all curtailments, or both.

II. ARGUMENT

A. "Mandatory" Curtailments

MEG's Initial Brief ("MEG Brief") repeatedly suggests that both the old Rate 10M and the slightly modified version proposed by MEG in this case ("the Brubaker Proposal") are fundamentally different from the curtailment riders currently offered by UE to its customers in

34

that Rate 10M and its proposed successor are "mandatory," while those currently offered by UE are "voluntary" in nature. (MEG Brief at 2, 3, 5, 6). According to MEG, "mandatory" curtailments are to be preferred because they help ensure system reliability, while "voluntary" curtailments do not.

The Staff believes it is important for the Commission to regard the terms "voluntary" and "mandatory" with a healthy degree of circumspection. It should be noted that in a fundamental sense, all of the curtailment provisions being discussed in this case are voluntary.

Under both old Rate 10M and the Brubaker Proposal, even though a customer may, from time to time, be subjected to a "mandatory" curtailment, the reality is that the customer may nevertheless elect not to curtail, or not to curtail as much as it had in the past. The only effect would be that, on a going forward basis, "credits" would only be paid on the amount of load that was actually curtailed. (Watkins Rebuttal, Ex. 7, Sch. I, p.3). Thus, as a practical matter, even under a "mandatory" rate such as that proposed by MEG in the instant case, customers still control whether or not they curtail and how much. To the extent that MEG customers elect not to curtail, UE would not be able to take advantage of the up to 40 kW of curtailable load that MEG can potentially offer, and that MEG states would be available to UE. (MEG Brief at 6).

As pointed out in Staff's Initial Brief ("Staff Brief"), if UE were ever to implement the tariff provision under which the Company is permitted to require its interruptible customers to install remote control switching devices, thereby enabling UE to initiate truly mandatory curtailments without delay for indefinite periods of time, MEG would be unable to live with the terms of its own (Brubaker) proposal. (Staff Brief at 10).

In addition, as was the case with Rate 10M before it, the Brubaker Proposal requires that before seeking a curtailment, UE attempt to purchase power on the open market. Accordingly, as noted in Staff's Initial Brief, there is a strong possibility that under the Brubaker Proposal, power will virtually always be available at some price and that, as a consequence, UE may never be permitted to call for interruptions and MEG would never be required to curtail.

B. Conditions on Curtailments

Following its review of the Company's Initial Brief ("UE Brief") regarding its disagreement with the Staff on the need for, and nature of, objective verifiable curtailment conditions in an interruptible rate such as proposed by MEG, the Staff believes that it needs to clarify its position on this issue. The Staff does not believe that there is any real disagreement between the Company and the Staff on this matter.

The Staff's philosophy is that, in contrast to the old Rate 10M and the Brubaker Proposal, an interruptible rate should be cost-based and should not include any restrictions on the Company's motives in calling for curtailments. Moreover, Staff believes that any other types of limitations on the Company's right to call for curtailments should be explicit and objectively verifiable. (Staff Brief at 10). For example, conditions like "no more than eight hours per day" or "no more than two days per week" are explicit and objectively verifiable. On the other hand, the unwritten limit for UE's old Rate 10M of a maximum of about 10 interruptions within a single year and an average of no more than 6 per year is anything but explicit. (Watkins Rebuttal, Ex. 7, page 6, lines 1-6). Conditions like "whenever in Company's judgment, such power is required to . . . maintain water elevation levels at Company's hydro plants consistent with the preservation of desired system reliability levels and applicable regulatory operating requirements" (Watkins Rebuttal, Ex. 7, Sch. I, pp. 4-5), as proposed by MEG, are not objective. Furthermore, it would be impossible to independently verify, after the fact, what the water elevation levels were at the time of the Company's curtailment call.

The Staff believes that the level of the credit should be directly related to the amount of curtailments that customers might experience, or, expressed from another perspective, the amount of curtailments that the Company can rely on to reduce its capacity requirements. This is the basic approach taken by UE in its Rider M and the approach supported by the Staff.

In the event the Commission rejects the recommendation of both the Staff and the Company, and instead orders the implementation of an additional interruptible rate, the essence of Staff's position, then, is that such a rate should be significantly different from that proposed by MEG; so different, in fact, that it would look more like existing Rider M, but without customer selected options.

The Commission should be mindful that if it orders the implementation of an additional interruptible rate, but one that is cost-based and appropriately conditioned, the amount of the credit almost certainly would be reduced substantially. In that event, there is certainly no guarantee that the MEG companies would even be willing to take service under such a rate. After all, at the end of the day, the MEG companies, in pressing for implementation of the Brubaker Proposal, are not motivated by an altruistic concern for system reliability; rather, they are acting in their own economic interest. If the MEG companies should conclude that taking service under such a cost-based interruptible rate would not serve their economic interest, MEG's assurance of 40 kW of curtailable load would vanish.

III. CONCLUSION

The Staff strongly recommends that the Commission reject MEG's proposed alternative interruptible rate scheme. There is no evidence that the proposal is needed for reliability purposes, and it is out of step with the realities of today's competitive wholesale market. The conditions under which curtailments may be imposed are not properly specified. The proposed rate level is not cost-based and is excessive. In addition, as noted in Staff's initial brief, there remains the all-the important question, unanswerable at this time, of who would be required to pay for it.

Even if the Commission were to order the implementation by UE of an additional interruptible rate, further detailed analyses and (likely) argument would be needed to fully develop a solid proposal that makes sense for the Company and all of its customers. The development of such a rate may well prove unattractive to MEG, thereby rendering the entire exercise a pure waste of time and money.

Respectfully submitted,

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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 21st day of February 2001.

Dennis L. Frey

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