



Missouri Public Service Commission

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March 14, 2001

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Secretary/Chief Regulatory Law Judge

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

FILED²

MAR 14 2001

Missouri Public
Service Commission

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 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.

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of a **SECOND YEAR OF SECOND EARP STIPULATION AND AGREEMENT.**

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**

FILED²

MAR 14 2001

Missouri Public
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)

**SECOND YEAR OF SECOND EARP
STIPULATION AND AGREEMENT**

COMES NOW the Staff of the Missouri Public Service Commission ("Staff"), the Office of the Public Counsel ("OPC") and Union Electric Company d/b/a AmerenUE ("AmerenUE" or "Company"), and in resolution of the quantification of second year sharing credits resulting from the second AmerenUE Experimental Alternative Regulation Plan ("second EARP") authorized by the Commission in its Report And Order in Case No. EM-96-149, the signatories state as follows:

1. On September 29, 2000, the Company submitted a letter to the Commission to document that the Company had sent to the Staff, OPC and the attorneys for certain industrial customers a preliminary earnings report along with a proposed sharing report for the sharing period ending June 30, 2000, i.e., for the second year of the second EARP.
2. On October 12, 2000, the Company filed its "Final" Earnings Report Filing: Second Sharing Period - Second EARP. The Company calculated the total sharing credit for ratepayers as being \$18,442,000.
3. On November 9, 2000, the Staff and OPC filed a Joint Motion For Extension Of Deadline To File Notice Of Areas Of Disagreement, wherein they requested that the Commission

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extend to December 1, 2000 the deadline for providing notice of areas of disagreement not previously brought to the attention of the Commission regarding the Company's "Final" Earnings Report Filing: Second Sharing Period – Second EARP.

4. On December 1, 2000, the Staff filed the Staff Report Respecting Second Sharing Period Of Second Union Electric Company Experimental Alternative Regulation Plan, and the OPC filed its Notice Of Areas Of Disagreement. In its report, the Staff requested that the Commission schedule December 20, 2000 for an early prehearing conference for the purpose of the parties submitting a procedural schedule, should a procedural schedule be necessary.

The Staff characterized the following as areas of disagreement between itself and the Company, as of that time:

- Advertising
- Environmental Expenses
- Territorial Agreements
- Legal Expenses
- Coal Inventory
- Capital Structure
- Income Taxes
- Other Specific Expense Categories

The Staff noted that some items were on the above list because the Staff had not completed its review of the subject mater, information still was being exchanged between the Company and the Staff, and/or the Company and the Staff were, or would be, engaged in discussions about these items.

OPC identified the following as its areas of disagreement with the Company, as of that time:

- Environmental Expenses
- Computer Software Costs
- Computer Costs (Capitalization and Expense)
- Gross Receipts Synchronization
- Lobbying and PAC Costs

Consulting Costs Related to Non-Regulated Activities
Ameren Energy Hardware/Software Costs
eBusiness Strategy Study
Enterprise Architecture Project

OPC noted that it had been engaged in limited settlement discussions with the Company and that further discussions and discovery efforts would likely narrow or otherwise alter the areas of disagreement.

5. On December 11, 2000, the Commission issued an Order Granting Joint Motion For Extension Of Deadline, Setting Prehearing Conference And Directing Procedural Schedule. Therein the Commission granted the Staff and OPC's Joint Motion For Extension Of Deadline To File Notice Of Areas Of Disagreement. As a consequence, the Commission found that the Staff's and OPC's pleadings filed on December 1, 2000 were timely filed. The Commission also scheduled an early prehearing conference for December 20, 2000 and directed that the parties file a proposed procedural schedule no later than January 15, 2001.

6. An early prehearing conference was held on December 20, 2000, at which the Company, the Staff, OPC, Missouri Industrial Energy Consumers (MIEC)¹, Missouri Energy Group (MEG)² and The Doe Run Company (Doe Run) appeared. On January 2, 2001, the Commission issued an Order Dismissing Parties respecting the parties to Case No. EM-96-149 that had not appeared at the early prehearing conference on December 20, 2000. On January 3, 2001, the State of Missouri ex rel. Attorney General Nixon (State Of Missouri) filed the State Of Missouri's Motion For Reinstatement, as a party to the instant case, and on January 11, 2001, Friendship Village of South County, Friendship Village of West County, Village North, Cardinal

¹ The Missouri Industrial Energy Consumers is comprised of Adams Mark Hotel, Anheuser-Busch Companies, Alcoa Foil Products, The Boeing Company, Ford Motor Company, General Motors Corporation, Holnam, Inc., Hussman Refrigeration Company, ISP Minerals, Mallinckrodt, Inc., MEMC Electronic Materials Inc., Monsanto Company, Precoat Metals, Procter & Gamble Manufacturing Company and Ralston Purina Company.

Ritter Institute and Orchard House Partnership (Retirement Facilities) filed a Motion For Reinstatement Of Retirement Facilities As Parties. On January 16, 2001, the Commission issued an Order Granting Reinstatement And Reconsideration Of Order Dismissing Parties.

7. On January 12, 2001, the Commission issued a Notice Extending Time To File Procedural Schedule, extending said date from January 15 to January 16, 2001. On January 16, 2001, a Stipulation And Agreement Respecting Procedural Schedule was filed by the Company, the Staff, OPC, MIEC, MEG and Doe Run. These signatories related that the State Of Missouri and the Retirement Facilities indicated no opposition to the proposed procedural schedule.

8. On February 8, 2001, the Commission issued an Order Establishing Procedural Schedule adopting the procedural schedule proposed in the Stipulation And Agreement Respecting Procedural Schedule filed on January 16, 2001. On February 15, 2001, the Company filed a Request To Hold Procedural Schedule In Abeyance, advising the Commission that the Company, the Staff and OPC had reached an agreement in principle on all outstanding issues in the second sharing period of the second EARP. The Company suggested that if a stipulation and agreement could not be filed by March 1, 2001, the Company would file a Notice with the Commission indicating the status of the effort and the anticipated filing date.

9. On February 21, 2001, the Commission issued an Order Suspending Procedural Schedule, wherein the Commission suspended the procedural schedule that it had adopted, directed the parties to file a case status report no later than March 1, 2001, if a stipulation and agreement resolving all issues was not filed on or before March 1, 2001. On March 1, 2001, the Staff filed Staff's Status Report relating that a stipulation and agreement would be filed by March 9, 2001, or the Staff would file another status report.

² The Missouri Energy Group is comprised of Barnes-Jewish Hospital, DaimlerChrysler Corporation, Emerson Electric Company, Lone Star Industries Inc., River Cement Company, SSM HealthCare and Unity Health System.

10. On March 9, 2001, the Staff filed another status report with the Commission.

11. Undersigned Staff counsel has contacted counsel of record for the parties that are not signatories to the instant Stipulation And Agreement. Counsel of record for said nonsignatory parties have indicated to undersigned Staff counsel no opposition to the instant Stipulation And Agreement.

Stipulation

12. The settlement amount of \$28,000,000 is a total dollar settlement. This settlement amount was reached without the Company, the Staff or OPC specifying a settlement amount associated with any particular area previously identified by the Staff or OPC as an area of disagreement.

13. None of the parties to this Stipulation And Agreement shall be deemed to have approved or acquiesced in any question of Commission authority, accounting authority order principle, cost of capital methodology, capital structure, decommissioning methodology, ratemaking principle, valuation methodology, cost of service methodology or determination, depreciation principle or method, rate design methodology, cost allocation, cost recovery, or prudence, that may underlie this Stipulation And Agreement, or for which provision is made in this Stipulation And Agreement.

14. This Stipulation And Agreement represents a negotiated settlement. Except as specified herein, the signatories to this Stipulation And Agreement shall not be prejudiced, bound by, or in any way affected by the terms of this Stipulation And Agreement: (a) in any future proceeding; (b) in any proceeding currently pending under a separate docket; and/or (c) in this proceeding should the Commission decide not to approve this Stipulation And Agreement in the instant proceeding, or in any way condition its approval of same.

15. The provisions of this Stipulation And Agreement have resulted from negotiations among the signatories and are interdependent. In the event that the Commission does not approve and adopt the terms of this Stipulation And Agreement in total, it shall be void and no party hereto shall be bound, prejudiced, or in any way affected by any of the agreements or provisions hereof.

16. The Staff shall file suggestions or a memorandum in support of this Stipulation And Agreement and the other parties shall have the right to file responsive suggestions or prepared testimony.

17. If requested by the Commission, the Staff shall have the right to submit to the Commission an additional memorandum addressing the matters requested by the Commission. Each party of record shall be served with a copy of any memorandum and shall be entitled to submit to the Commission, within five (5) days of receipt of the Staff's memorandum, a responsive memorandum, which shall also be served on all parties. All memoranda submitted by the parties shall be considered privileged in the same manner as are settlement discussions under the Commission's rules, shall be maintained on a confidential basis by all parties, and shall not become a part of the record of this proceeding or bind or prejudice the party submitting such memorandum in any future proceeding or in this proceeding whether or not the Commission approves this Stipulation And Agreement. The contents of any memorandum provided by any party are its own and are not acquiesced in or otherwise adopted by the other signatories to this Stipulation And Agreement, whether or not the Commission approves and adopts this Stipulation And Agreement.

The Staff also shall have the right to provide, at any agenda meeting at which this Stipulation And Agreement is noticed to be considered by the Commission, whatever oral

explanation the Commission requests, provided that the Staff shall, to the extent reasonably practicable, provide the other parties with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. The Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

18. If the Commission does not unconditionally approve this Stipulation And Agreement without modification, and notwithstanding its provision that it shall become void thereon, neither this Stipulation And Agreement, nor any matters associated with its consideration by the Commission, shall be considered or argued to be a waiver of the rights that any party has to a hearing on the issues presented by the Stipulation And Agreement, for cross-examination, or for a decision in accordance with Section 536.080 RSMo 2000 or Article V, Section 18 of the Missouri Constitution, and the parties shall retain all procedural and due process rights as fully as though this Stipulation And Agreement had not been presented for approval, and any testimony or exhibits that have been offered or received in support of this Stipulation And Agreement shall thereupon become privileged as reflecting the substantive content of settlement discussions and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

19. In the event the Commission accepts the specific terms of the Stipulation And Agreement, the signatories waive their respective rights to cross-examine witnesses; their respective rights to present oral argument and written briefs pursuant to Section 536.080.1 RSMo 2000; their respective rights to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo 2000; and their respective rights to judicial review pursuant to Section


386.510 RSMo 2000. This waiver applies only to a Commission Report And Order respecting this Stipulation And Agreement issued in this proceeding, and does not apply to any matters raised in any subsequent Commission proceeding, or any matters not explicitly addressed by this Stipulation And Agreement.

WHEREFORE the Staff, the Office of the Public Counsel and AmerenUE hereby request that the Commission approve the instant Stipulation And Agreement and direct AmerenUE to effectuate a one time credit to its Missouri electric retail customers of \$28,000,000.

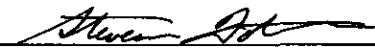
Respectfully submitted,

UNION ELECTRIC COMPANY
d/b/a AmerenUE

STAFF OF THE MISSOURI
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Dated: March 14, 2001

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 14th day of March, 2001.



Steven Dottheim

**SERVICE LIST FOR
CASE NO. EM-96-149
Verified: March 9, 2001 (ccl)**

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