



Missouri Public Service Commission

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January 5, 2001

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FILED 2
JAN 5 2001
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 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 STAFF NOTICE OF UNION ELECTRIC COMPANY'S FIRST REQUESTS FOR ADMISSION AND UNION ELECTRIC COMPANY'S FIRST SET OF INTERROGATORIES AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS.

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,

[Signature]

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

JAN 5 2001

Missouri Public
Service Commission

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.)

Case No. EM-96-149

**STAFF NOTICE OF UNION ELECTRIC COMPANY'S
FIRST REQUESTS FOR ADMISSION AND
UNION ELECTRIC COMPANY'S FIRST SET OF INTERROGATORIES
AND FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Comes now the Staff of the Missouri Public Service Commission (Staff) and files with the Missouri Public Service Commission (Commission) notice of Union Electric Company's First Requests For Admission and Union Electric Company's First Set Of Interrogatories and First Request For Production Of Documents:

1. On December 26, 2000, the Staff received by facsimile transmission and electronic mail, and on December 28, 2000 by U.S. first class mail, Union Electric Company's First Requests For Admission and Union Electric Company's First Set Of Interrogatories and First Request For Production Of Documents.

2. Union Electric Company's (UE) First Requests For Admission cites 4 CSR 240-2.090 and Missouri Supreme Court Rule Of Civil Procedure (Mo. R. Civ. P.) 59.01 and propounds sixty-four (64) matters requested to be admitted. UE's First Set Of Interrogatories cites 4 CSR 240-2.090 and Mo. R. Civ. P. 57.01 and propounds thirty-six (36) interrogatories, one (1) of which with as many as twelve (12) subparts and most of which with at least three (3) subparts. UE's First Request For Production of Documents cites 4 CSR 240-2.090 and Mo. R.

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Civ. P. 58.01 and requests documents identified by the Staff in response to each and every interrogatory propounded by UE and certain documents covering the last ten (10) years.

3. 4 CSR 240-2.090(2) permits parties to use data requests as a means for discovery and sets out the procedures to be followed respecting data requests. 4 CSR 240-2.090(1) states in relevant part that “[d]iscovery may be obtained by the same means and under the same conditions as in civil actions in the circuit court.” UE has chosen to proceed by use of requests for admissions, interrogatories and requests for production of documents rather than by data requests.

4. Mo. R. Civ. P. 59.01(a) provides, in relevant part, that “[t]he matter is admitted unless, within thirty days after service of the request, or within such shorter or a longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter . . .” (Emphasis added). Mo. R. Civ. P. 59.01(b) provides, in relevant part, that “[t]he request and response thereto shall not be filed with the court except upon court order or contemporaneously with a motion placing the request in issue. However, both when the request and the response are served [sic] the party serving them shall file with the court a certificate of service.” (Emphasis added). UE has not filed with the Commission a certificate of service.

5. Mo. R. Civ. P. 57.01(a) provides, in relevant part, that “the answer and objections shall be served within thirty days after the service of the interrogatories. The court may allow a shorter or longer time.” (Emphasis added). Mo. R. Civ. P. 57.01(b) provides, in relevant part, that “[i]nterrogatories and answers under this Rule 57.01 shall not be filed with the court except upon court order or contemporaneously with a motion placing the interrogatories in issue. However, both when the interrogatories and answers are served, the party serving them shall file

with the court a certificate of service.” (Emphasis added). UE has not filed with the Commission a certificate of service.

Mo. R. Civ. P. 57.01(a) further states that “[a]t the time the party who is to answer the interrogatories is served, the interrogating party also shall serve a copy, with a notice stating the name and address of the party who is to answer, upon each additional party, if any.” (Emphasis added). The Office of the Public Counsel (Public Counsel), Missouri Industrial Energy Consumers (MIEC)¹, Missouri Energy Group (MEG)² and The Doe Run Company have advised the Staff that they have not been served a copy of UE’s First Set Of Interrogatories to the Staff.

6. Mo. R. Civ. P. 58.01(b) provides, in relevant part, that “[t]he party upon whom the request [for production of documents] is served shall serve a written response within thirty days after the service of the request . . . The court may allow a longer or a shorter time.” (Emphasis added). Mo. R. Civ. P. 58.01(c) provides, in relevant part, that “[t]he request and responses thereto shall not be filed with the court except upon court order or contemporaneously with a motion placing the request in issue. However, both when the request and responses are served, the party serving them shall file with the court a certificate of service.” (Emphasis added). UE has not filed with the Commission a certificate of service.

Mo. R. Civ. P. 58.01(b) states that “[a]t the time of such service [of the request], the requesting party also shall serve a copy, along with a notice stating the name and address of the party who is to respond, upon each additional party, if any.” (Emphasis added). Public

¹ The Missouri Industrial Energy Consumers is comprised of Adam’s Mark Hotel, Anheuser-Busch, Inc., Alcoa Foil Products (Alumax, Inc.), The Boeing Company, General Motors Corporation, Hussman Refrigeration Company, Mallinckrodt, Inc., MEMC Electronic Materials Inc., Monsanto Company, Procter & Gamble Manufacturing Company, Ralston Purina Company and Lincoln Industrial.


² The Missouri Energy Group is comprised of Barnes and Jewish Hospitals, Chrysler Corporation and Emerson Electric Company.

Counsel, MIEC, MEG and The Doe Run Company have advised the Staff that they have not been served a copy of UE's First Request For Production Of Documents to the Staff.

7. Regardless of UE's lack of compliance with the Missouri Supreme Court Rules of Civil Procedure, under which it has chosen to proceed, the Staff believes that it will be able respond to UE's discovery within thirty (30) days of the service that was made upon the Staff on December 26, 2000, even though the Staff otherwise has valid objections to some of UE's discovery. The Staff will provide responses as they are completed and will not wait until the end of the thirty (30) days permitted by said Missouri Supreme Court Rules of Civil Procedure. The Staff would note that certain individuals who will be participating in responding to UE's discovery were on leave from the Commission part or all of the week of December 26, 2000 and were on leave even into part of the week of January 2, 2001.

Respectfully submitted,

DANA K. JOYCE
General Counsel



Steven Dottheim
Chief Deputy General Counsel
Missouri Bar No. 29149

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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 5th day of January 2000.



**SERVICE LIST FOR
CASE NO. EM-96-149
Verified: January 5, 2001 (RR)**

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