

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Union Electric Company d/b/a)
Ameren Missouri’s Tariffs to Increase) **File No. ER-2014-0258**
Its Annual Revenues for Electric Service.)

**OPPOSITION OF UNITED FOR MISSOURI TO
DEPARTMENT OF ECONOMIC DEVELOPMENT’S
PETITION FOR LEAVE TO FILE AMICUS BRIEF**

COMES NOW, United for Missouri, Inc. (“UFM”), and for its Opposition to the Department of Economic Development (DED) and its *Petition for Leave to File Amicus Brief*, states as follows:

1. On March 31, 2015, all Parties in this case filed initial post-hearing briefs pursuant to an order of the Missouri Public Service Commission (“Commission”) dated August 20, 2014.
2. On April 7, 2015, the Department of Economic Development filed its *Petition for Leave to File Amicus Brief* (“*Petition*”).
3. In its *Petition*, DED cited to 4 CSR 240-2.075(11), which states:

Any person not a party to a case may petition the commission for leave to file a brief as an amicus curiae. The petition for leave must state the petitioner’s interest in the matter and explain why an amicus brief is desirable and how the matters asserted are relevant to the determination of the case. The brief may be submitted simultaneously with the petition. Unless otherwise ordered by the commission, the brief must be filed no later than the initial briefs of the parties and comply with all applicable briefing requirements.

Claiming not to be a party to the case, it argues that it should be allowed to file its amicus brief after the ordinary time of no later than the initial briefs of the parties, because “it is clear that the public interest would be served by allowing the opinion of the Executive Agency charged with supporting economic development in the state to be heard by the Commission.”

4. The Petition should be rejected for several reasons.

5. First, while DED's claim of not being a party is technically correct, the Division of Energy, a division of DED, is a party to this case.¹

6. Second, DED's delay in filing its *Petition* is inordinate. The Commission has repeatedly in the recent past admonished parties that they must comply with Commission rules. There must be a good cause showing for failure to comply with the Commission rules. An unexplained delay does not constitute good cause. DED has failed explain its delay or to make a good cause showing. DED carries a heavy burden considering that it has been aware of these issues for some time, not only through its own status as an executive agency of the state but also due to the status of the Division of Energy as a party. To file a mere three days prior to the date for filing reply briefs is delay in the extreme. Its status as an executive agency of the state should not provide DED any special status compared to the interests of the private citizens of the state of Missouri.

7. Third, the substance of the *Post-Hearing Amicus Brief of the Department of Economic Development* ("Amicus Brief") constitutes a description of an economic impact study DED conducted through the Missouri Economic Research and Information Center related to the Noranda aluminum smelter. The *Amicus Brief* provides a brief description of the study and its results. In essence, the *Amicus Brief* is unsworn testimony submitted to this Commission. The late date of the filing provides the other parties no opportunity to cross-examine this new evidence. It therefore violates the due process rights of the other parties.

8. Fourth, filing its *Amicus Brief* a mere three days prior to the due date for reply briefs likewise diminishes the parties' ability to respond to these new claims in their reply briefs.

¹ See *Missouri Division of Energy's Motion to Intervene*, July 23, 2014, fn. 1.

Wherefore, UFM prays the Commission deny DED's *Petition*.

Respectfully submitted,

By /s/ David C. Linton
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Dated: April 10, 2015

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email to all parties by their attorneys of record as provided by the Secretary of the Commission on the 10th day of April, 2015.

/s/ David C. Linton
David C. Linton