

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²
AUG 05 2002
Missouri Public
Service Commission

Zoltek Corporation,

Complainant,

v.

Union Electric Company,
d/b/a AmerenUE,

Respondent.

Case No. EC-2001-345

**RESPONDENT UNION ELECTRIC COMPANY d/b/a
AMERENUE'S PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

Respondent Union Electric Company d/b/a AmerenUE ("AmerenUE") proposes that the Public Service Commission (the "Commission") adopt the following Findings of Fact and Conclusions of Law in its Report and Order addressing the issues raised by the complainant Zoltek Corporation's ("Zoltek") as to the electric service it received from AmerenUE at its Missouri Research Park plant between 1993 and 2001.

To the extent that any Finding of Fact herein is more appropriately a Conclusion of Law, said Finding of Fact shall be deemed to be a Conclusion of Law.

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PROPOSED FINDINGS OF FACT

1. Zoltek operates a carbon fiber manufacturing plant in the Missouri Research Park (the "Research Park") in St. Charles County, Missouri.
2. The Research Park is owned by the University of Missouri.

3. AmerenUE and the Curators of the University of Missouri entered into an agreement in 1988 with respect to AmerenUE's provision of electric service to the Research Park.

4. Zoltek is not a party to the 1988 agreement between the University of Missouri and AmerenUE.

5. Zoltek first considered building a plant in the Research Park in 1990, approximately two years after the 1988 agreement.

6 AmerenUE has supplied electric service to Zoltek's plant in the Research Park since 1993.

7 Zoltek designed the equipment that it uses in its Research Park plant.

8 Zoltek did not perform any load testing or sensitivity testing of the equipment it uses in its Research Park plant during its design or construction phase.

9 Zoltek's equipment is sensitive to sags and variations in electric voltage.

10. Zoltek experienced a number of fires and other problems with its equipment in the Research Park when it first began production in 1993.

11. During the period from 1993 to 2001, Zoltek experienced numerous problems with its equipment which appeared to be related to the electrical system.

12. Zoltek's employees recorded some of the problems with the equipment, including the approximate duration of the problem and whether the problem resulted in damage or lost production to Zoltek.

13. From these records, Zoltek prepared a log of 277 "service quality incidents" (the "Log").

15. The term “service quality incident” has no meaning in the electric utility industry but is a term created by Zoltek to record the events that have occurred during its use of the equipment at the Research Park plant.

16. Zoltek has acknowledged responsibility for seven of the 277 incidents in the Log.

17. Zoltek has also experienced a number of other incidents at the plant which were not recorded in the Log.

18. Zoltek did not undertake any investigation to determine the cause of the “service quality incidents.”

19. From 1993 to 2001, there were a number of meetings and communications between representatives of Zoltek and AmerenUE to discuss Zoltek’s complaints about electric service to the plant.

20. AmerenUE conducted limited monitoring of the service to Zoltek’s plant in 1993 and 1994.

21. AmerenUE offered several times in 1997 to perform a power quality investigation at the plant but Zoltek refused AmerenUE’s offer.

22. Limited monitoring of the service to Zoltek’s plant again took place in 2000 in connection with litigation between Zoltek and AmerenUE in the St. Louis City Circuit Court.

23. The monitoring that was performed by AmerenUE in 1993, 1994 and 2000 was not a power quality investigation of the type and extent proposed by AmerenUE in 1997.

24. Zoltek is unable to identify how many of the incidents listed on the Log were voltage sags or fluctuations as opposed to complete outages or loss of power.

25. The majority of the incidents on the Log did not impact the manufacturing process at Zoltek’s plant.

26. Zoltek has been unable to identify the cause of the incidents on the Log but has accepted responsibility for seven of the incidents.

27. The incidents on the Log lasted from less than one second to several hours to a few which lasted longer than one day.

28. According to Zoltek's Log, 251 of the 277 incidents on the Log lasted one minute or less.

29. Only 18 of the 277 incidents listed on the Log were confirmed on AmerenUE's system by AmerenUE's sophisticated data acquisition monitoring equipment.

30. Zoltek is unable to identify which, if any, of the 277 incidents on the Log were caused by AmerenUE.

31. Zoltek is unable to identify which, if any, of the 277 incidents on the Log were within AmerenUE's control.

32. Zoltek is unable to identify what, if anything, AmerenUE can do to reduce the number of incidents Zoltek has experienced at the Research Park plant.

33. During the period from 1993 to 2001, AmerenUE made several improvements to the system that served the tenants of the Research Park, in part to respond to Zoltek's complaints and in part to improve its overall service in the Wentzville District.

34. No electric utility can provide uninterrupted, or "perfect," power.

35. Any consumer of electricity must expect voltage sags and variations as part of the normal operation of an electric utility's service.

36. The large majority of the incidents recorded by Zoltek were voltage sags or variations.

37. The voltage sags, variations and outages experienced by Zoltek from 1993 to 2001 were less than the industry average.

38. 1993 was a year of unusual weather conditions in the area of St. Charles County, Missouri, with an unusually high number of thunderstorms, lightening and wind.

PROPOSED CONCLUSIONS OF LAW

1. The Commission has jurisdiction to determine if AmerenUE provided safe, adequate and reliable service to Zoltek's Research Park plant. §§ 386.250(1), 393.130 and 393.140 RSMo. 2000.

2. Zoltek is required to prove its claims against AmerenUE by clear and satisfactory evidence.

3. Upon the evidence adduced, conditions outside the control of AmerenUE are the cause of many of the incidents about which Zoltek complains.

4. Upon the evidence adduced, AmerenUE's provision of electric service to Zoltek from 1993 to 2001, AmerenUE did not violate the provisions of 4 CSR 240-10.030(23).

5. Upon the evidence adduced, Zoltek is not a third-party beneficiary of the 1988 agreement between the University of Missouri and AmerenUE.

6. AmerenUE is prohibited from providing preferential or discriminatory treatment to Zoltek.

7. To the extent any agreement entered into by AmerenUE requires AmerenUE to provide preferential treatment or a different level of service to Zoltek as opposed to other customers without a Commission-approved agreement for said customer to pay for said different level of service, that agreement is void as a matter of law.

8. Upon the evidence adduced, AmerenUE provided safe, adequate and reliable electric service to Zoltek's Research Park plant from 1993 to 2001.

9. Upon the evidence adduced, AmerenUE has met all statutory and regulatory obligations in its provision of electric service to Zoltek from 1993 to 2001.

10. Upon the evidence adduced, AmerenUE's actions with respect to its provision of electric service to Zoltek from 1993 to 2001 was at all times reasonable and appropriate under the relevant statutory and regulatory requirements.

11. Upon the evidence adduced, Zoltek is not entitled to any relief on its complaint against AmerenUE.

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Certificate of Service

The undersigned hereby certifies that a copy of the foregoing Union Electric Company d/b/a AmerenUE's Proposed Findings of Fact and Conclusions of Law was hand-delivered this 5th day of August 2002 to Office of Public Counsel, P.O. Box 7800, Jefferson City, Missouri 65102, General Counsel, Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102, M. Zane Yates and Brian H. May, Yates & May, L.C., 101 South Hanley, Suite 1025, Clayton, MO 63105 and Terry Allen, 102 East High Street, Suite 200, P.O. Box 1497, Jefferson City, Missouri 65102, attorneys for Complainant, Zoltek Corporation.

