BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

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In the Matter of Union Electric Company, d/b/a AmerenUE's Tariffs to Increase Its Annual Revenues for Electric Service

Case No. ER-2011-0028

MISSOURI INDUSTRIAL ENERGY CONSUMERS' <u>RESPONSE IN OPPOSITION TO MOTION TO RESTRICT TESTIMONY</u>

Comes now the Missouri Industrial Energy Users ("MIEC") and pursuant to the Commission's November 5 Order Establishing Time to Respond provides its response to Union Electric Company d/b/a Ameren Missouri's November 5 Motion to Provide Additional Clarification of Requirements for the Parties' Case-in-Chief and Direct Testimony ("Ameren Missouri's Motion") as follows:

 Ameren Missouri's Motion seeks to impose restrictions different from the Commission's Rule 4 CSR 240-2.130 governing testimony.

2. Any order granting Ameren Missouri's Motion would in effect change the Commission's Rule 4 CSR 240-2.130. Changes to a rule include amendment of an existing rule. Mo. Rev. Stat. § 536.010 (4). If Ameren Missouri believes the Commission should change or amend its rules, it should make this request in a rulemaking proceeding pursuant to the statutory procedures set forth in Mo. Rev. Stat. § 536.021 and 536.025. Ameren Missouri's Motion is without legal basis and would violate Missouri's statutory rulemaking procedure by in effect changing the Commission's rules in the midst of a contested case.

WHEREFORE, the MIEC requests that AmerenUE's Motion be denied.

Respectfully submitted,

BRYAN CAVE, LLP

By: <u>/s/ Diana Vuylsteke</u>

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 9th day of November, 2010, to all parties on the Commission's service list in this case.

<u>|s| Diana Vuylsteke</u>