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July 20, 2001

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Missouri Public Service Commission

VIA FEDERAL EXPRESS

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

Re: MPSC Case No. EO-2000-580

Dear Mr. Roberts:

Enclosed for filing on behalf of Union Electric Company, d/b/a AmerenUE, in the above matter, please find an original and eight (8) copies of its **Response of Union Electric Company to the MEG Interruptibles' Renewed Motions to Implement Curtailment Tariff on an Interim Basis and for Oral Argument and Motion for Expedited Treatment.**

Kindly acknowledge receipt of this filing by stamping a copy of the enclosed letter and returning it to me in the enclosed self-addressed envelope.

Very truly yours,

James J. Cook
Managing Associate General Counsel

JJC/mlh
Enclosures

cc: Mr. Lewis Mills
Hearing Examiner

Parties on Attached Service List

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of an Investigation Into an Alternative Rate Option for Interruptible Customers of Union Electric Company d/b/a AmerenUE	))))	Case No. EO-2000-580

RESPONSE OF UNION ELECTRIC COMPANY TO THE MEG INTERRUPTIBLES' RENEWED MOTIONS TO IMPLEMENT CURTAILMENT TARIFF ON AN INTERIM BASIS AND FOR ORAL ARGUMENT AND MOTION FOR EXPEDITED TREATMENT

COMES NOW, Union Electric Company, d/b/a AmerenUE ("the Company") and submits this Response to the MEG Interruptibles' Renewed Motions to Implement Curtailment Tariff Proposed by MEG Interruptibles on an Interim Basis and Motion for Expedited Treatment in the above styled case.

The Company opposes both motions.

These motions are nothing more than one more attempt by these customers to renege on a Stipulation they previously agreed to, without giving back the benefits they received. These customers agreed to the elimination of the old Interruptible rate in a settlement approved by this Commission in Case No. EO-96-15. At one time the old Interruptible Rate made sense – it met certain needs of the utility and some of its customers. But the discount included in that rate became inappropriate. Therefore, in the rate design case (EO-96-15) both the Staff and the Company argued that the rate was no longer just or reasonable. In the settlement of that case, that rate was eliminated. In exchange, those customers received other benefits as part of the settlement. These were enumerated by an Ameren witness in the hearing in EO-2000-580 (Transcript pp. 115

and 116). They included: these customers were transferred to the Large Primary Rate, which received an above-average rate reduction; the energy charges were reduced by more than the demand charges, thus benefiting these high-load factor customers, and the Rider B credits which were negotiated as part of the agreement were higher than had been recommended by the Staff or the Company – to the benefit of these customers. In addition they were allowed to retain the old rate beyond the time when the rates of other customers were changed.

As has been stated many times, the MEG proposal is nothing more than the reinstatement of the old rate, with a few "tweaks" that make it even more uneconomical to the Company. The proposal would re-institute an uneconomical and unjustified discount, while creating additional administrative burdens on the Company.

These customers have been making this request repeatedly, and the Company has repeatedly informed the Commission why it is inappropriate. Rather than restate all of the arguments again, the Company has attached hereto, as Exhibits A - K, various pleadings previously submitted to the Commission relevant to this request. Concerning the "Pending Matters" listed by MEG on page 2 of its pleading -- the Company's responses to the three MEG initiated pleadings are attached hereto as Exhibit I and Exhibit K. In brief response to the specifics of the Argument included in the most recent MEG pleading, the Company adds the following:

RESPONSE TO ARGUMENT

1. MEG first makes the claim that granting their request will "effectively provide 40 Megawatts of capacity immediately to meet customer demands without any necessity of constructing a new expensive plant." MEG fails to tell the Commission that

30 of those 40 Megawatts are already available. The three MEG customers are voluntarily participating in Rider L, which is a voluntary curtailment program. As part of their participation in that tariff, they have made 30 Megawatts available for curtailment, pursuant to the terms and conditions of that Rider. Therefore, it is absolutely inaccurate to suggest that without the MEG proposal, the Commission is missing out on a golden opportunity to provide 40 Megawatts of capacity that would otherwise not be available. 30 Megawatts are already available – and at a rate that is apparently acceptable to both the Company and its customers.

The MEG pleading also erroneously states that "the record confirms that the Brubaker Proposal is less costly than the cost of constructing new gas-fired capacity." As was stated in the Company's response to MEG's previous request to re-open the record, "the cost of the Brubaker proposal exceeds the cost of the capacity and energy UE has under contract, pursuant to the RFP process for the summer of 2001, by a factor of four or five times!"

2. MEG erroneously refers to the "actions of AmerenUE terminating Rate 10(M)..." That rate was eliminated by agreement of the parties to the Company's last rate design case, including MEG. In addition, MEG continues to claim that the elimination of the old rate increases their annual cost of electric service "by approximately $2.4 million." That claim was shown to be wildly overstated in the hearing in EO-2000-580. In fact, MEG continues to ignore the cost of lost production when a curtailment was called for, that they no longer suffer. As was shown (virtually without contradiction) the actual net increase in energy costs due to the elimination of the old rate is less than 1/3 of what MEG claims. Moreover, MEG continues to fail to

mention the opportunities available from the new options which are available to them, and which they are using.

3. Implementation of the MEG proposal will adversely affect all customers of AmerenUE, because the costs associated with the unwarranted, overstated discount included in that proposal will be passed on to all other customers as a legitimate cost of service. Surely, if the Commission grants one group of customers a discount that even the Commission's own Staff has testified is overstated, it will be the other customers that make up that difference. Obviously, the most appropriate way to handle the matter is to not grant an unwarranted discount in the first place.

4. The Company suggests, as it has previously, that the record is more than complete on this matter. Every argument included in this newest pleading has been made and debunked previously. The Company still sees little that will be gained by granting the request for oral argument. It is clear from a brief review of the previous pleadings and this newest one by MEG, that no new facts, claims or arguments are being put forth. Hearing them all again would not seem to be very helpful in reaching a decision.

5. MEG again raises the inaccurate claimed increase in energy costs because of the elimination of a rate that they agreed to. They continue to mislead the Commission by the use of this number. They continue to mislead the Commission by tying to suggest that Ameren took this rate away without their consent. They continue to mislead the Commission by referring to the implementation of a new voluntary interruptible tariff "incorporating a whole new concept of pricing, as determined by the utility without the requirement of Commission approval" (page 1 of MEG pleading).

The claimed increase is overstated by a factor of three; the rate was eliminated with the consent of these very customers, in exchange for other benefits that they now refuse to acknowledge; and the new voluntary interruptible tariff was approved by the Commission. The Commission should consider these repeated misrepresentations very carefully before granting MEG's requests.

CONCLUSION

MEG's request should be denied. It will not make 40 Megawatts available, it will not be cheaper than alternative sources of capacity and will therefore not avoid fuel cost volatility. It will not support economic development in the state, unless economic development is to be supported by uneconomical discounts.

Dated: July 20, 2001

Respectfully submitted,
UNION ELECTRIC COMPANY
d/b/a AmerenUE

By _____

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via U.S. First Class Mail on this 20th day of July, 2001, on the following parties of record:

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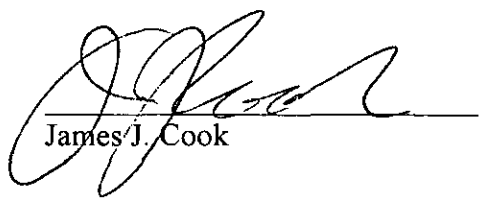

James J. Cook

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of an Investigation Into an Alternative Rate Option for Interruptible Customers of Union Electric Company d/b/a AmerenUE	))))	**Case No. EO-2000-580**

RESPONSE OF UNION ELECTRIC COMPANY TO REQUEST TO ESTABLISH A DOCKET CONCERNING "INTERRUPTIBLE CUSTOMERS"

On March 20, 2000, Holnam, Inc, Lone Star Industries, Inc, and River Cement Company (Applicants) filed a pleading requesting that the Commission establish a docket to investigate the establishment of an additional alternative rate option for interruptible customers of Union Electric Company d/b/a AmerenUE. On March 23, 2000, the Commission issued a Notice Setting Time for Response. Union Electric Company ("the Company") hereby submits its response to the Applicant's filing:

1. The Stipulation in the Rate Design Case No. EO-96-15 ("Stipulation") provided for the elimination of the Company's then current Interruptible Power Rate 10(M) after the May 2000 billing period and that a new tariff, the Voluntary Curtailment Rider would become effective by June 1, 1999. That Stipulation also provided that no party would object, on procedural grounds, to any party's filed application to initiate a docket for the Commission's consideration of an additional alternative rate option for interruptible customers to be available no sooner than June 1, 2000. The Company's response to the Application of the MEG Interruptibles is not an objection on procedural grounds, but is an explanation as to why the Company feels that the initiation of a proceeding for such a purpose is currently unnecessary.

Exhibit A

2. The Stipulation provided for the Company and the Industrials to enter into good faith discussions regarding alternative rate options. As MEG points out, numerous discussions have taken place between various Company representatives (including Senior Management, Customer Service personnel and others) and its three largest interruptible cement plant customers commencing in the fall of 1999 and continuing on into spring 2000. The Company participated in those discussions in good faith; however, the Customers' position was, and remained, one of resistance to the elimination of the old Interruptible Rate 10 (M). The Customers proposed some changes to the old rate, but left the main components intact. The Company, however, offered a new and additional alternative interruptible rate option during such discussions. As discussed below, the Company could not agree to the customers' requests.

3. In response to some of the more specific points raised in the Customers' pleading: The term "differential" in the "grandfathered" rates currently being paid by MEG and their applicable firm rate is misleading. There is and was no "grandfathering" of the current Interruptible 10(M) Rate. The $ 2.5 million reference by MEG is in the ballpark as to the calculated difference between the 10(M) and Large Primary 11(M) Rates for such customers. However, it is totally unrealistic to assume that such customers would not act in some manner to reduce this differential by participating in either the totally voluntary Rider VCR, which provides more operating flexibility to both the customers and the Company, or in the Company's new Option Based Curtailment Rider - Rider M, which is discussed below. Moreover, as provided in Rider M, such customers may participate in both Riders during various portions of the year. It is also misleading to describe the Company's most recent discussions with these customers as a "black box" approach to pricing. To the contrary, the Company's discussions with the MEG representatives covered a wide range of customer

options for curtailment, with specific examples of what the Company would pay to such customers during the summer of 2000 billing season, based upon various selected options.

4. The Company has planned for the elimination of the 10(M) Rate for the 2000 summer period and anticipates no adverse affect on system reliability.

5. The Attachment to the MEG Application is a combination of several of the features of the Interruptible 10(M) Rate which is slated for elimination by the terms of the Stipulation in Case No. EO-96-15. Alternative interruptible/curtailment tariffs, offered by the Company, include the Voluntary Curtailment Rider, which is currently in effect, and the Option Based Curtailment Rider, which the Company filed with the Commission on April 6, 2000. The provisions of the MEG attachment are exactly the same as those discussed extensively, both internally and with the MEG customers and their representatives, over the past several months and found to be unacceptable to the Company. The Company's general objections to the customers' proposal were that it is overly restrictive and administratively burdensome to the Company, and that it does not provide the Company with a cost-effective way of managing system resources to meet its system loads.

6. In addition to the Voluntary Curtailment Rider, on April 6, 2000, the Company filed for Commission approval an Option Based Curtailment Rider – Rider M. This Rider will provide for both a summer month premium to be paid to customers and a per kilowatthour payment premium to customers, for all kilowatt-hours curtailed, based upon a customer elected and optional strike price, curtailment frequency and duration. As indicated earlier, customers may elect to be served under both Rider M and Rider VCR subject to the terms and conditions contained therein.

7. The Company anticipates the availability of both Rider VCR and Rider M for the summer months of 2000. Both of these are customer elected curtailment tariffs involving

various customer options and the receipt of market based payments from the Company. A considerable amount of resources has been expended by the Company in the development of these tariffs, and the Company has filed to make some minor revisions to Rider VCR since its initial period of application during the summer of 1999. The Company believes that the customers who filed this request will, after leaving the 10 (M) Rate, have more options than they had in the past, and that those options will be very advantageous to these customers, in terms of the added operational flexibility of their plant facilities. The new Riders give the customer the option to curtail, as opposed to the old Interruptible rate, which allowed the Company to make that decision, and which often resulted in various requests for waivers of certain tariff provisions when a curtailment was initiated. Both of the Company's interruptible/curtailment Riders referred to herein offer significantly enhanced customer options, choices and flexibility as compared to the 10 (M) Rate being eliminated. For example, individual customers electing to curtail more frequently will receive greater payments from the Company than those electing to curtail less frequently will. This option and flexibility is not contained in the 10 (M) Rate.

For the above reasons, the Company suggests to the Commission that the initiation of a docket for yet another interruptible or curtailment tariff is totally unnecessary at this time.

Respectfully submitted,

AmerenUE

Dated: 4-11-00

By: James J. Cook

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CERTIFICATE OF SERVICE

Case No. EO-2000-580

I hereby certify that a copy of the foregoing was served via Federal Express on this 11th day of April, 2000, on the following parties of record:

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Mr. Robert C. Johnson
720 Olive Street, Ste. 2400
St. Louis, MO 63101

James J. Cook

James J. Cook

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Union Electric Company's Tariff Sheets to Revise Rates for Interruptible Customers of Union Electric Company	)))	**Case No. ET-2000-666**

UNION ELECTRIC COMPANY'S RESPONSE TO MOTIONS TO SUSPEND TARIFF AND TO CONSOLIDATE AND OBJECTION TO STYLE OF CASE

Union Electric Company, d/b/a AmerenUE ("the Company") hereby submits its Response to the pleadings of the "MEG Interruptibles" (Holnam, Inc.; Lone Star Industries Inc.; and River Cement Company) which were filed in response to the Company's tariff filing of April 6, 2000 (Tariff File No. 200000913). In addition, the Company objects to the style of the matter, presumable initiated by MEG in its pleadings. The Company response and objection are as follows:

1. By letter dated April 5, 2000, and received by the Missouri Public Service Commission on April 6, 2000, the Company submitted four Original Tariff Sheets for filing. This filing is to initiate a new Rider M, "to provide the Company's primary service rate customers the opportunity, at their option, to grant Company the right to call for the curtailment of a portion of such customers' electrical usage based upon a number of curtailment options selected by each individual customer and contracted for with Company." (Transmittal letter, dated April 5, 2000, page 1) On April 19, 2000, the MEG filed its Motion to Suspend those tariffs.

2. MEG raises no issues in regard to the tariff filing that justify its request to suspend. Specifically, in paragraph 1 of its pleading, the MEG identifies itself as a group of customers who were previously on the Company's former Interruptible Rate. In paragraph 2,

Exhibit B

they state that they "protest and object to" the Company's filing. In paragraph 3, they make certain claims about the settlement of Case No. EO-96-15 which are not altogether accurate. MEG claims that "UE insisted on implementation of a new curtailment tariff under which curtailments were largely keyed to economic conditions, rather than reliability concerns." This is not necessarily an accurate statement of the Company's position in EO-96-15, but the statement is irrelevant to the protest and this response. They state that the terms of the Stipulation and Agreement in EO-96-15 "granted the right to initiate a proceeding to consider an alternative rate option for interruptible customers of UE." In fact, the Stipulation granted the customers the right to request such a proceeding, only. It is accurate that said request is currently pending before the Commission.

3. Paragraph 4 of the MEG's filing merely states that the Company's filing is different from the MEG's proposal. Paragraph 5 states that the MEG requested the implementation of a "new alternative curtailment tariff on an interim basis during the pendencies of these proceedings" and that it would be "inappropriate to permit UE's proposed Curtailment Tariff to go into effect as the utility has requested."

4. Paragraph 6 states that the issues involved in the Company's filing and the "proceedings previously filed by the MEG" customers "are substantially the same and therefore the matters should be consolidated.

5. MEG raises, literally, no reason to suspend the Company's filing. The Rider that the Company filed is totally voluntary; no customer will be forced to take the service. Each customer can make its own determination whether it wishes to take advantage of the Rider.

6. Suspending the Rider will make it unavailable to customer during the upcoming summer season. Suspending the Rider will therefore deprive eligible customers of

the potential financial advantages of the Rider. Perhaps, if MEG had raised even a single reason why such a suspension would be warranted, the Commission might want to consider it. However, MEG has raised no reasons, whatsoever, except that the Company's tariff filing is not the MEG's filing. There is not even an allegation that the Company's filing is potentially harmful, potentially uneconomical, that it could be better, that it has a flaw that should be corrected, or that it won't work. MEG has raised no reason to suspend this filing.

7. The Company has already contacted its customers to explain the filing and has received requests from three Missouri customers, totaling over 12 MWs, that, pending Commission approval, they want to take advantage of the Rider this summer.

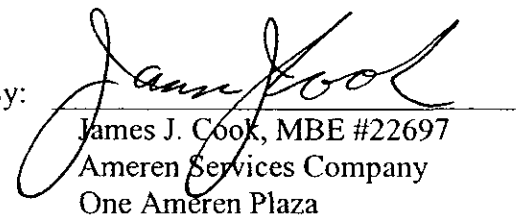
8. In addition, the Company objects to the style of this matter as apparently first developed by the MEG's filing. The Company filed original tariffs, which establish a new Rider that is available to Small and Large Primary customers who meet the requirements of the tariffs. The style of this matter, as stated by MEG, at the top of its pleading, is "In the Matter of Union Electric Company's Tariff sheets to Revise Rate for Interruptible Customers of Union Electric Company." (emphasis added) The Company's filing does not "revise rate for interruptible customers." Pursuant to the Commission's order in EO-96-15, the Company's old Interruptible rate expires at the end of the May 2000 billing period. Customers who were being served on the Interruptible rate may or may not be eligible or interested in the new Rider. Other customers, who were not Interruptible customers, may be eligible for the new Rider. It is incorrect, and in fact, misleading to refer to the Company's filing as a revision of "rates for Interruptible Customers." The Company objects to that description. The Company suggests that this matter, should it be prolonged in any way, be referred to as follows: "In the Matter of Union Electric Company's Tariff Sheets to Establish Rider M – Option Based Curtailment Rider."

WHEREFORE, for the reason that there is no justification, whatsoever, to suspend the Company's filing, and because the filing offers significant benefits – on a purely voluntary basis – to many of the Company's customers, the Company respectfully requests that MEG's request to suspend the tariffs be denied.

Respectfully submitted,

AmerenUE

Dated: April 24, 2000

By: 

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via Federal Express on this 24th day of April, 2000, on the following parties of record:

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James J. Cook

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of an Investigation Into an Alternative Rate Option for Interruptible Customers of Union Electric Company d/b/a AmerenUE	)))	Case No. EO-2000-580

UNION ELECTRIC COMPANY'S RESPONSE TO MEG INTERRUPTIBLES' MOTION FOR EXPEDITED SCHEDULE OF PROCEEDINGS, MOTION FOR ORAL ARGUMENT, AND SUGGESTONS

COMES NOW Union Electric Company ("UE" or "the Company") and in response to MEG Interruptibles' ("MEG") pleadings filed on July 3, 2000, states as follows:

1. On or about July 3, 2000, the MEG Interruptibles filed several pleadings with the Commission: Motion for Expedited Schedule of Proceedings; Suggestions in Support of Motion for Expedited Schedule of Proceedings; Motion for Oral Argument; and Suggestions in Support of Application for Approval of an Interim Alternative Interruptible Rate. In response to these pleadings, the Company states as follows:

2. The Company is opposed to the MEG's Motion for Expedited Schedule; is opposed to its Motion for Oral Argument; and continues to be opposed to its request for approval of an interim alternative interruptible rate.

3. On April 30, 1999, the same entities who now make up the MEG Interruptibles signed the Stipulation and Agreement in Case No. EO-96-15. One of the provisions of that Stipulation was the termination of the Company's Interruptible rate. Part of that Stipulation, however, allowed those customers who were then on the rate, to remain on it through the May 2000 billing period. That Stipulation also stated that the parties would not object on procedural grounds to the filing of "an application ... to initiate a docket for consideration by the Commission of an additional alternative rate option for interruptible customers, to be

Exhibit C

available no sooner than June 1, 2000." (Stipulation and Agreement, Case No. EO-96-15, p Section II 4)

4. On March 20, 2000, the MEG customers filed a request with the Commission for the initiation of a case to consider MEG's proposed tariff. On April 12, 2000 the Company responded to that filing, questioning the necessity of such a docket. Much of what was stated in that pleading is appropriate in response to the instant pleadings, and rather than repeat itself, the Company asks that its prior response be considered along with this response.

5. The bottom line in this matter is that the MEG customers, after agreeing to the elimination of the Interruptible Rate, have now requested that a similar rate be put back into effect. To the extent that MEG's tariff proposal is different from the old Interruptible rate, it is in some instances more restrictive on the Company, and therefore significantly less useful as a "reliability" tool for the Company.

6. In its Suggestions in Support of Motion for Expedited Schedule of Proceedings, the MEG states that the old Interruptible Tariff had been in effect for approximately thirty (30) years. What may have made economic and operational sense thirty years ago, may not do so today. In light of the changes the Company has seen and experienced, it has developed and currently has in effect in its Missouri tariffs, two new voluntary options (Rider L and M) for customers like the MEG customers.

7. The MEG customers claim that they have, "benefited by saving approximately $2.4 million in electric costs as a result of the credits received under the [old] Tariff." First, these were not "credits" but a discount that was given to the customers year-round. Staff testimony in EO-96-15 indicated that this discount was not justified. Before that issue was litigated, however, the parties including MEG agreed to terminate the rate. MEG knowingly

took on the risk that the Commission would not approve a rate that MEG might propose. MEG certainly should not have assumed that the Commission would, in effect, re-institute the old Interruptible Rate, under a new name, simply based upon MEG's request.

8. MEG has inexplicably objected to the Rider L and M tariff filings made by the Company earlier this spring, which provide voluntary opportunities for customers such as MEG and more than 100 other customers to curtail their demand and receive significant financial benefits. Their only reason for such objections has been that the new voluntary tariffs are not as good for MEG as the old rate. In its recent filings, MEG only states that the new options are "substantially different" from the old rate. Just because a new voluntary option is not as good as or different from the old unjustified discount, is not a sufficient reason to suspend the new options, nor to reinstitute some variation of an old rate that the Company considers undesirable and which all parties have agreed to eliminate. Moreover, such MEG objections to the implementation of these new Company tariffs this past spring flies directly in the face of, and is totally contrary to, MEG's expressed "concerns" about the Company's reliability and ability to meet firm load.

9. Although MEG says much about the undesirability of the new Rider M, they do not mention the other option – Rider L (Voluntary Curtailment Rider) which all three MEG customers have signed up for as potential curtailment participants.[1] It should also be pointed out that while interruptions were mandatory under the Company's old Interruptible Rate, curtailments under Rider L and participation in Rider M are totally voluntary. Moreover, in their attempt to denigrate Rider M, they state that the price is "to be determined by UE based

[1] Coincidentally, Rider L was used on July 10, 2000. Preliminary figures indicate that approximately 60 megawatts were curtailed – voluntarily - after an offer was made by the Company. Twenty customers responded that they wanted to participate in the curtailment and there was no dispute about whether the

upon market pricing and other considerations." They do not mention that the price per kWh to be paid to the customer is agreed to with the customer and contractually guaranteed by the Company before the customer begins subjecting its operations to a particular mode of curtailment. Nothing is imposed by the Company that the customer does not voluntarily agree to and contract for with the Company.

10. MEG states that "there is little customer interest in Rider M." To the contrary, the Company already has five customers who have contracted with the Company to take advantage of that Rider, with over 20 MW of contractually guaranteed curtailable load. Even after 30 years in existence, there were only five customers on the old Interruptible Rate.

11. MEG states that it has 60 megawatts of interruptible load, which would be available to the Company for reliability purposes. That figure is not consistent with the Company's figures, which indicate that these customers have closer to 40 megawatts of interruptible load. Moreover, the Company already has under contract over 150 megawatts of Rider L and M curtailment load subject to the provisions of the new tariffs. The Company has no problem with providing evidence on the "reliability issue" as suggested by the MEG. However, there is no reason that the hearing on the issue be expedited. The Company anticipates no reliability problems in meeting the requirements of its firm system loads in the foreseeable future.

12. MEG offers no purported evidence to support its claims of reliability concerns, other than to suggest that the overstated megawatts that their customers previously had subject to curtailment are not now as available. MEG offers no such evidence, because there is no such evidence.

Company was about to meet a new system peak, or a new annual peak, or 95% of a new peak. It was a simple economic decision made by the Company and its Customers.

13. MEG claims that "customer impacts are substantial." The financial impact complained of here is the impact caused by the elimination of the Interruptible Rate to which the MEG agreed! Moreover, it should be recalled that the Stipulation and Agreement, as with all such agreements, was a "give and take" settlement. It should not be assumed that the MEG got nothing in return for its signing of this Agreement. Yet, now they also want part of the deal back.

14. In referring to Docket No. ET-99-96, MEG states that the "issues are not new." It is not true that the existence of that now dismissed case allows this matter to be expedited. The general subject matter may be similar, but the testimony in that case cannot be simply transferred to this case, nor, more importantly, were the details of the proposed tariff now submitted by MEG addressed in that case.

15. The Company sees no reason for oral argument. The claims of system reliability are spurious and the "loss" of $2.4 million per year was freely agreed to by the MEG. MEG's pleadings are already largely repetitive; there is no reason to believe that additional, helpful information will be forthcoming in oral argument.

WHEREFORE, for the reasons set forth above, Union Electric Company requests that the MEG's Motion for Expedited Schedule, its Motion for Oral Argument, and its request for approval of an interim alternative interruptible rate be denied.

Date: July 14, 2000

Respectfully submitted,

UNION ELECTRIC COMPANY
d/b/a AmerenUE

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of an Investigation Into an Alternative Rate Option for Interruptible Customers of Union Electric Company d/b/a AmerenUE	))))	Case No. EO-2000-580

UNION ELECTRIC COMPANY'S
STATEMENT OF POSITION ON ISSUES

COMES NOW Union Electric Company, d/b/a AmerenUE ("Ameren", "UE" or "the Company") and respectfully submits the following statements of position on the Proposed List of Issues filed by the Commission Staff on September 29, 2000.

A. Should the Commission order Union Electric Company to file tariff sheets to implement the interruptible rate concepts proposed by the MEG Interruptibles?

AmerenUE's Position: No. UE opposes the MEG proposal. That proposal is merely a slight modification of the prior Interruptible 10(M) Rate which was withdrawn earlier this year by agreement between the Company, Staff and MEG.

B. Should such interruptible rate provide for an average discount of $5.00 per kilowatt per month?

AmerenUE's Position: No. UE cannot justify or support this MEG proposed average discount of $5.00 per kilowatt month. UE believes that its current market related curtailment Riders L and M provide a more appropriate performance and cost based discount for such service.

C. Should such interruptible rate explicitly provide for the number and cumulative hours of interruptions allowable?

Exhibit D

AmerenUE's Position: No. UE believes that the structure of interruptible rates should be flexible to meet various operating conditions, reflective of costs incurred, or potential costs avoided and, therefore, should not explicitly be restricted to the number and cumulative hours of interruptions.

D. Should such interruptible rate explicitly state the conditions under which interruptions may occur, and, if so, should those conditions be such that they are capable of being objectively verified?

AmerenUE's Position: UE believes that the structure of an interruptible rate need not and should not be administratively burdened by attempts to define various conditions under which curtailments may occur but, rather, should be structured on the basis of voluntary market related curtailment price offerings from UE to its customers based on conditions at the time.

WHEREFORE, Ameren respectfully submits its positions in this matter.

Respectfully submitted,

UNION ELECTRIC COMPANY

d/b/a AmerenUE

By: _____

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Dated: October 12, 2000

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of an Investigation Into an Alternative Rate Option for Interruptible Customers of Union Electric Company d/b/a AmerenUE	))))	Case No. EO-2000-580

MOTION TO STRIKE
POSITION STATEMENTS OF THE MEG INTERRUPTIBLES

COMES NOW Union Electric Company d/b/a AmerenUE ("AmerenUE" or "the Company") and requests that the Position Statements of the MEG Interruptibles be stricken as not being in compliance with the Commission's "Order Denying Motion for Oral Argument and Establishing Procedural Schedule," ("Order") issued on July 27, 2000. In support of its Motion, the Company states as follows:

1. In its Order, the Commission stated the following:

   (C) The parties shall agree upon and the Staff shall file a list of the issues to be heard .... Any issue not contained in this list of issues will be viewed as uncontested and not requiring resolution by the Commission.

   (D) Each party shall file a statement of its position on each disputed issue. Such statement shall be simple and concise, and shall not contain argument about why the party believes its position to be the correct one.

2. The List of Issues submitted pursuant to that Order contained only four issues:

   A. Should the Commission order Union Electric Company to file tariff sheets to implement the interruptible rate concepts proposed by the MEG Interruptibles?

Exhibit E

B. Should such interruptible rate provide for an average discount of $5.00 per kilowatt per month?

C. Should such interruptible rate explicitly provide for the number and cumulative hours of interruptions allowable?

D. Should such interruptible rate explicitly state the conditions under which interruptions may occur, and, if so, should those conditions be such that they are capable of being objectively verified?

3. These issues are quite clear and concise. The main question is whether the MEG proposal should be adopted. The other three issues merely ask sub-questions of that main issue: Basically, the other three issues assume an affirmative answer to the first question and then ask about details of such a new rate. Should there be an average discount of $5.00 per kilowatt per month; should the rate, if approved, provide for the number and cumulative hours of interruptions; and should the rate state the conditions under which interruptions may occur, and should those conditions be verifiable?

4. The MEG Interruptibles submitted their Position Statements on October 10, 2000. Only the first of six position statements is related to any of the disputed issues listed on the Issues List submitted by the parties. Thereafter, the statements are mere arguments about what MEG Interruptibles have filed in their testimony and prior pleadings; the statements do not respond to the Disputed Issues on the submitted list. Therefore, they should be stricken.

5. Statement No. 2 says: "Reliability considerations are an important factor in designing an Interruptible Tariff." None of the issues listed ask about, or refer to "reliability." Reliability may be part of MEG Interruptibles' testimony, and may be relevant to

MEG Interruptibles' arguments in support of its proposed tariff (or it may not be), but it is nowhere to be found in the list of issues. Reliability has nothing to do with the amount of "an average discount"; it has nothing to do with the "number of cumulative hours of interruptions allowable;" and nothing to do with whether the rate should "explicitly state the conditions under which interruptions may occur." As such, it should be stricken.

6. Statement No. 3 states that the Company's "Rate" (sic) M and Rider L "may be useable by some customers, but are not an adequate substitute for Rate 10M insofar as the cement companies are concerned." None of the issues listed refer to the Company's current voluntary curtailment options. Whether those options are adequate, desirable, workable, or "an adequate substitute" for a prior Company tariff, is nowhere to be found in the list of issues. Therefore, this statement should be stricken.

7. Statement No. 4 claims that the Company is short of capacity and states that the prior Company tariff, with MEG Interruptibles' proposed modification "can help UE meet its reliability requirements." The Company's capacity situation is not one of the issues listed. Whether the MEG proposal would "help" or not is irrelevant to any of the issues listed and therefore this statement should be stricken.

8. Statement No. 5 claims that MEG Interruptibles have experienced "an increase ... of approximately 2.4 million dollars." Then the claim is made that such an increase "is discriminatory, and is neither just nor reasonable." The justness or reasonableness of the Company's current rates are not at issue in this case. Therefore, this Statement should be stricken.

9. Statement No. 6 states that the "present Interruptible Rate Schedule M permits curtailments for economic reasons contrary to Missouri regulatory policy." There is no Rate Schedule M. It is assumed that MEG is referring to Rider M. Assuming MEG means to refer to Rider M, there is nothing in the List of Issues that references "Missouri regulatory policy" on "economic curtailments." There is no issue in the List of Issues to which this Statement No. 6 remotely applies. MEG, of course fails to mention that the curtailments allowed under Rider M can only occur if the customer has voluntarily agreed in advance. MEG's statement clearly tries to leave a different impression. MEG Interruptibles have improperly used this filing as an attempt to raise new issues that were not on the agreed to list, and then attempted to argue their position on these "new" issues.

WHEREFORE, because MEG Interruptibles' filing is not in compliance with the Commission's order concerning the Statement of Positions to be filed by the parties, the Company respectfully requests that Statements 2 through 6 of MEG Interruptibles Statements of Position be stricken, and only Statement No. 1 be allowed into the record in this case.

Respectfully submitted,
UNION ELECTRIC COMPANY
d/b/a AmerenUE

By: _____

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Dated: October 13, 2000

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via U. S. first-class mail on this 13th day of October, 2000, on the following parties of record:

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Governor Office Building
200 Madison Street, Suite 650
Jefferson City, MO 65101

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James J. Cook

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE
STATE OF MISSOURI

In the Matter of an Investigation into an Alternative Rate Option For Interruptible Customers of Union Electric Company d/b/a AmerenUE	))))	Case No. EO-2000-580

INITIAL BRIEF OF UNION ELECTRIC COMPANY

COMES NOW Union Electric Company (the Company or UE) and submits the following as its Initial Brief in the above styled matter:

PROCEDURAL HISTORY

1. On March 20, 2000, Holnam, Inc., Lone Star Industries, Inc., and River Cement Company (Applicants, MEG Interruptibles, or MEG) filed a pleading with this Commission requesting that the Commission establish a case to investigate the establishment of an "alternative rate option for interruptible customers of Union Electric Company." Attached to that pleading was an outline of the concepts MEG wished to have included in any new rate.
2. On April 12, 2000, Union Electric Company filed its Response to the MEG request. In that response, the Company indicated that it had no procedural objections to the request, but asserted that the initiation of such a proceeding was unnecessary.
3. On April 13, 2000, the Commission Staff filed its Response to the MEG request. The Staff also raised no objection on procedural grounds to the establishment of such a case. The MEG had also requested that an interruptible rate option be made available on an interim basis. Both the Company and the Staff opposed that request.

Exhibit F

4. On April 18, 2000, MEG filed a Motion to Consolidate the instant proceeding with a tariff filing (Rider M) that the Company had made on April 5, 2000 (ET-2000-666 Tariff No. 200000913). On that date, MEG also filed a pleading in ET-2000-666, objecting to and protesting the Company's filing and asking that the Company's filed tariff be suspended. The Company and the Staff opposed MEG's requests and on April 27, 2000, the Commission issued an Order in ET-2000-666 denying MEG's requests, and approving the tariff as filed.

5. On May 18, 2000, the Commission issued an Order in the instant case also denying the MEG Motion to Consolidate, and scheduled a prehearing conference to be held on June 21, 2000.

6. On June 21, 2000, the prehearing conference was held in this matter.

7. On July 5, 2000, MEG filed a pleading requesting that the Commission establish an expedited schedule, and schedule oral argument in support of MEG's application for approval of an interim alternative interruptible rate.

8. On July 15, 2000, UE and the Staff filed Responses to MEG's requests. Both the Staff and the Company opposed MEG's requests. Staff filed a suggested procedural schedule, and the Company indicated its support of that schedule.

9. On July 20, 2000, MEG filed its Reply to the Staff and Company Responses.

10. On July 27, 2000, the Commission issued an Order denying MEG's requests, and approved the Staff's suggested procedural schedule. That schedule called for the submission of Direct testimony by Applicants on July 31; Rebuttal testimony of all parties on September 14; surrebuttal and cross-surrebuttal on October 5 and evidentiary hearings on October 19 and 20, 2000.

11. On August 5, 2000, MEG filed a motion seeking rehearing of the Commission's order.

12. On September 29, 2000, the Staff submitted, with the concurrence of all parties, a list of issues, order of witnesses and order of cross-examination for the hearing. All parties filed their Statement of Positions on the issues.

13. On October 13, 2000, the Company filed its Motion to Strike Position Statements of the MEG Interruptibles.

14. On October 19, 2000, the Commission issued an order canceling the hearings, due to the death of the Governor.

15. On October 20, 2000, MEG filed a response to the Company's Motion to Strike Position Statement.

16. Evidentiary hearings were rescheduled for November 4, 2000, and later rescheduled again for November 30, 2000. Hearings were held on that date.

ISSUES AND POSITIONS OF THE PARTIES

ISSUE 1

Should the Commission order Union Electric Company to file tariff sheets to implement the interruptible rate concepts proposed by the MEG Interruptilbes?

Positions of the Parties

The Company and the Staff answer this question with a clear "NO". The MEG position on this issue is "YES".

The remaining three issues are really "sub-issues" of the first. Moreover, it is only necessary to address issues 2 – 4 if the first is answered in the affirmative.

ISSUE 2

Should such interruptible rate provide for an average discount of $5.00 per kilowatt per month?

The Company's position is that the MEG has not supported its proposal of $5.00. Moreover, the Company believes that its current optional market-related curtailment Riders L and M provide a more appropriate discount for such service.

The Staff states that if the MEG proposal were to be used, a further analysis of the Company's current avoided costs would have to be performed in order to determine the appropriate level of discount.

Although MEG's Statement of Position does not address this issue, one may presume its position that the Commission should adopt Mr. Brubaker's concepts as MEG's support of the $5.00 discount.

ISSUE 3

Should such interruptible rate explicitly provide for the number and cumulative hours of interruptions allowable?

The Company opposes this restriction. Rather, a rate structure that is more flexible to both customers and the Company, is more appropriate to meet various operating conditions and to respond to costs incurred or potential costs avoided.

The Staff believes that a rate based on the concepts of the MEG proposal should explicitly state the maximum number and/or cumulative hours of load curtailments that are allowed during each year. Again however, a "further analysis" would be required to determine what that number should be. Such a number, if determined, would only be

appropriate for the specific period covered by the additional analysis suggested by the Staff.

MEG again does not address this issue in its Statement of Position.

ISSUE 4

Should such interruptible rate explicitly state the conditions under which interruptions may occur, and, if so, should those conditions be such that they are capable of being objectively verified?

The Company strongly suggests that the era of trying to anticipate, and then dictating what types of system conditions should occur before curtailments can occur, has long past. Curtailment options based upon voluntary and flexible market-related conditions are much more common in the industry today, and much more logical. In addition, they eliminate the potential for gaming the system and the resulting lengthy disputes that occurred under the old rate and would likely occur under the modified old rate, herein referred to as the Brubaker proposal.

The Staff takes the position that, assuming the Brubaker concepts have been adopted, no conditions should be placed on curtailing load up to the maximum allowed each year. Exceptions should be explicitly described in advance and be verifiable. This maximum would also need to be taken into account in the additional analysis required to determine the appropriate discount.

MEG again does not address this issue in its Statement of Position.

DISCUSSION

ISSUE 1

Should the Commission order Union Electric Company to file tariff sheets to implement the interruptible rate concepts proposed by the MEG Interruptibles?

This issue is, of course, the crux of the matter before the Commission in this case. Should the Commission require the Company to implement the rate proposed by the MEG customers? The other issues are merely sub-issues; they are to be addressed only if the ultimate question is first determined in the affirmative. The burden here is on the MEG to explain why the Commission should undo the very recent settlement agreement it approved in Case No. EO-96-15 to eliminate this rate; why the Commission should even consider forcing a rate on an unwilling utility which is also opposed by the Commission's own Staff. MEG has clearly not met that burden.

Why should a utility refuse to provide a service that is desired? Why not continue to give customers the discount they have been receiving for so long? In this case, we have a situation where the customers claim to be merely asking to get back the discount and the service they had been receiving for years before they voluntarily gave it up. What can be so wrong about that?

Utilities do attempt to provide products and services to customers that will meet customers' needs and desires. But they do not continue to give discounts and types of service that no longer make sense to their own business. They do not provide products and services at a price that fails to cover their costs and provide a fair profit (unless perhaps, they are allowed to recover those lost costs and profits from other customers).

Here, the MEG customers previously received a service and a discount that, at one time, may have made sense. That service, the 10(M) Interruptible Rate, which included a very generous discount, served a purpose at one time. It met certain needs of the Company, and provided a nice discount to customers who could meet the requirements of the tariff. But, just as one might still like to buy a luxury automobile, without all that annoying emission equipment, and pay only $3,000, that is not possible today. There are many reasons why that is not possible, but the customer's desire is just not enough to force the dealer to make that deal.

Why should the Commission force AmerenUE to file tariffs based on the Brubaker concepts?

MEG has certainly made clear what it wants out of this case:

> "The Brubaker Tariff would be beneficial to Lone Star Industries and permit it to achieve operational savings.... It is our estimate that under the Brubaker Tariff Lone Star Industries would realize savings that would approximate the savings under the original Rider (sic) 10M or possibly slightly less than we achieved in past years." (Direct Testimony of Don Schuette, Electrical/Electronic Superintendent of Lone Star Industries, Inc, Exhibit 4, p5, lines 6, 7 and 12 – 14)

> "Holnam felt that the Rate 10M curtailment credit, coupled with the frequency of curtailments tied primarily to system reliability, was a fair balance with the production losses realized during curtailments...." (Direct Testimony of David F. Dorris Plant Manager, Holnam, Inc., Exhibit 5, p. 2, lines 11 – 13)

> "We ask the Commission to put into effect <u>immediately</u> an interruptible rate that contains the combination of features from prior Rate 10M and the seven points outlined on Schedule 1." (Direct Testimony of Maurice Brubaker, Exhibit 1, page 14, lines 4, 5) (emphasis in original)

It is clear that the customers want their discount back. They are willing to tweak the rate by suggesting the seven points mentioned by Mr. Brubaker; but the bottom line is

that they want the 10(M) rate discount back. Of course there is no mention of giving up the benefits they received as part of the stipulation that resulted in the elimination of the 10(M) rate. But, one cannot blame a customer for wanting to get electric service at a cheaper rate.

The Company's witness, Mr. Richard J. Kovach, Manager of the Rate Engineering Department of AmerenUE, provided testimony about how the 10(M) rate was agreed to be discontinued. In his Rebuttal Testimony (Exhibit 6) at page 2, and in Schedule 2 to his testimony, the story of the elimination of the 10(M) rate can be found. By agreement of the Company, the Staff and various other parties, including the interruptible customers, themselves, the 10(M) rate "shall no longer be available for service to additional customers... [and]....will be available to current interruptible customers through the May 2000 billing period, but not thereafter."

Mr. Kovach continues on page 3 to state the obvious: that the MEG customers received other benefits as part of the negotiations that resulted in the elimination of the 10(M) rate; that new voluntary curtailment options are available to them; and curtailment is no longer mandatory, as it was under 10(M). In response to questions from the Bench during the hearing on this matter, Mr. Kovach enumerated specific benefits that the MEG customers received in that settlement: those customers transferred to the Large Primary Rate, which received an above-average rate reduction; the energy charges (inaccurately transcribed as "emergency" charges on page 116) were reduced by more than the demand charges, thus benefiting the high-load factor customers, which included the MEG customers. In addition, the final agreement provided for Rider B credits that were higher than recommended by the Staff or the Company – to the benefit of these customers. And

they were allowed to retain the 10(M) rate beyond the time when the rates of other customers were changed. (Transcript pp. 115, 116)

In that prior case, both the Company and the Commission staff recognized that the 10(M) rate was no longer appropriate. Its terms and conditions, as well as its discount, were no longer just or reasonable.

And just as that rate was no longer appropriate at the time it was agreed to be eliminated, it is not appropriate now.

It is clear that the MEG customers have not met their burden of showing why the Commission should order the Company to file tariff sheets to implement the interruptible rate concepts proposed by the MEG Interruptibles. The Commission should not do so.

However, the MEG's burden in this case is to tell the Commission why MEG should get what it wants; it is not the Company's burden to convince the Commission why something similar to the old 10(M) rate should not be reactivated. Although MEG has provided testimony from several witnesses, including a respected expert and representatives for the three customers, there is virtually no evidence or argument to support its request, other than "we used to have this service and we want it back."

A review of the Direct Testimony of Mr. Brubaker would be the most logical place to look for the reasoning to support the MEG request. But a review of that testimony shows almost nothing that helps answer the ultimate question here. But, let us go through that testimony and see what is said concerning why the Commission should force the Company to provide this discounted service.

1. Mr. Brubaker starts with a reference to Case No. EO-96-15. He claims that the parties were "unable to reach agreement on the appropriate structure and price

level for the continuation of an interruptible rate." (Exhibit 1, page 2, line 4) He then skips to the point in the Stipulation and Agreement in that case that "provided the option for Interruptible Customer to file to initiate this docket." He fails to mention that the Stipulation eliminated the Interruptible Rate. His telling makes it sound like the parties merely put interruptible service on hold while the details of the structure and price level were worked out.

That is clearly not the case. As stated by Mr. Watkins, the Staff witness, "There is no evidence presented that Company needs such a tariff to continue to provide reliable service to its customers." (Exhibit 7, p. 2, line 14) Mr. Kovach included the relevant section of the Stipulation, which clearly states that, "The present ...Interruptible Power Rate shall no longer be available for service..." Near the end of that section of the Stipulation, it states, "The Company and the Industrials will enter into good faith discussions regarding alternative interruptible rate options." (Exhibit 6, Schedule 2) Clearly, the old rate was to be eliminated, and it was. Then, the parties were to, and did, enter into good faith negotiations about what happens next.

Therefore, MEG's first reason for the Commission to act, is merely that the Stipulation which eliminated the old Interruptible Rate allowed the customers to file a request with the Commission "regarding interruptible rate options." Of course, this merely allows MEG in the door; it says nothing about why their request should be granted.

2. The second reason seems to be that the Company did not provide a "specific critique" of the proposals suggested by MEG at the discussions. (Brubaker Direct, Exhibit 1, p, 3) Mr. Brubaker claimed that "no meaningful discussions took

place." However, a careful reading of Mr. Brubaker's testimony and his cross examination clearly shows that the reason he believes no meaningful discussions took place is that the Company would not agree to his proposals. It is clear that he wished the discussion to center on what modifications to his proposal might be acceptable.

On page 2 of his Direct Testimony (Exhibit 1) , Mr. Brubaker tells about how the customers "offered a proposal to UE which would modify the existing Interruptible Rate 10M ..." On cross examination, Mr. Brubaker admitted to having heard each of several objections AmerenUE had raised to his proposal. In response, he modified his earlier claim that the Company had not offered a critique, to say that "... what I was trying to convey was that there was no discussion of the particular aspects of the proposal that we had made. There was no back and forth about the specific terms..." (Tr. 34, lines 8 – 11)

What is obvious, is that the customers were offering only a modified version of a tariff that the Company and the Staff had found unacceptable in the previous case, and that those minor modifications were clearly not sufficient to make the proposal acceptable. The Company obviously did not believe the proposal was acceptable. This does not mean that meaningful discussion did not take place. It does mean that the Company could not be convinced to accept Mr. Brubaker's proposal as a starting point for discussion, because Mr. Brubaker's proposal was merely a warmed over version of the eliminated rate. But rather than try to modify the proposal to meet some of those objections, or work with the Company's proposal during such discussions, or suggest a different approach entirely, the MEG decided to see if it could get the Commission to force this proposal on the Company through this proceeding.

3. The third reason seems to be that the MEG customers find one of the new optional rates offered by the Company to be an inadequate substitute for the old 10(M) rate. It may be true that the customer benefits of the new Rider M are not as attractive to these three customers as the old rate, but at least five customers, with approximately 24 MWs of load found it attractive enough to sign up for it during 2000. (Tr, 115, line 2 – 4, examination of Mr. Kovach) But, as Mr. Rader agreed on cross examination, the Brubaker proposal is more beneficial to his company than Rider M because the Brubaker proposal is "essentially the same" as UE's old rate. (Tr. 54, lines 9, 10)

Of course, whether Rider M is an adequate substitute for the old rate is not the issue. It was not advertised as such; nor was the elimination of the old rate conditioned upon the Company's filing of new rates that would be an adequate substitute. Moreover, MEG has made it clear that the only "adequate" substitute would be one that provided at least the same level of discount as the old rate. This, too, was not a part of the stipulation.

4. Actually, there is no 4th reason. At this point in his testimony, Mr. Brubaker begins explaining the "elements of the tariff which industrial customers are proposing, and the differences from the rate 10M." (Exhibit 1, p 4, line 1) One supposes that MEG may argue that it is the proposed modifications to the old rate that justify its adoption. The Company argues that these modifications provide no such support for the proposed tariff's adoption.

The easiest place to look for a summary of the modifications is Schedule 3 to Mr. Kovach's testimony (Exhibit 6). There, Mr. Kovach sets out each of the concepts included in Mr. Brubaker's proposal, and then compares them to the provisions in the old

10(M) rate. Mr. Kovach has more than the seven "concepts" from Mr. Brubaker's schedule because Mr. Kovach includes all of the major provisions of the proposal, including those provisions that are unchanged from the old rate.

As can clearly be seen from Mr. Kovach's Schedule 3, Mr. Brubaker's proposal continues many of the provisions of the old rate. Those provisions that are new or different are, almost without exception, more restrictive on the Company than the old, unacceptable rate. Penalties for non-compliance are reduced, peak hours are reduced, curtailments for system peaks are eliminated, a new notice requirement is imposed on the Company, new record keeping requirements are added, and the assurance notice requirement is reduced. The only benefit to the Company is the addition of limited economic curtailment provisions that the Company found to be inadequate.

While a detailed discussion of the comparison of the Brubaker tariff with the old 10(M) rate may be interesting, we were actually searching for reasons why the Commission should require the Company to adopt the Brubaker tariff. We are still searching. Nothing in this section of Mr. Brubaker's testimony gives us any compelling reason, or any reason at all.

Pages 4 – 13 of Mr. Brubaker's direct testimony are devoted entirely to explaining the various concepts of the proposed tariff that Mr. Brubaker wanted to highlight. He briefly explains those provisions and sometimes suggests why one is better than the competing provision in the old rate. Perhaps if the assignment had been to come up with seven ways to make the old interruptible rate different, his testimony would be helpful. But that was not the assignment. If the assignment was to suggest ways to make the old interruptible rate even more attractive to customers and even more onerous to the utility,

it would have been helpful, but that was not the assignment, either. The burden that MEG has in this case is to justify its proposal. Explaining the relative alleged benefits of tweaked provisions of an eliminated tariff versus the provisions of that eliminated tariff does not begin to meet that burden.

5. The closest Mr. Brubaker comes to discussing why his proposal should be forced on the Company begins on page 13 of his direct testimony. There he addresses what he refers to as "the consequence of interruptible customers having elected to take firm service."

1st Consequence

The first consequence is that "they pay more money to UE – their bills go up on an annual basis by about $2,400,000." (Exhibit 1, p. 13, line 17)

The Company does not dispute the $2,400,000 difference in the annual bills of the MEG customers. As stated in Mr. Kovach's testimony (Exhibit 6, p. 4, line 10) this billing difference is derived from "a direct comparison between the eliminated 10(M) Interruptible Rate and the Company's current Large Primary Service Rate 11(M)." Mr. Kovach then proceeded to discuss three benefits that the direct comparison ignores. However, in addition to those three benefits, is the matter of the offsetting savings realized by the MEG customers as a result of the elimination of lost production during the 10(M) curtailments.

Mr. Rader, for River Cement Company, stated that his company's savings from the 10(M) rate were "partially offset by production losses experienced during curtailment periods." (Ex. 3, p. 2, l. 21) Mr. Schuette, of Lone Star Industries, Inc., stated that the savings his company achieved because of the Rate 10(M) discount were "partially offset

by production losses experienced during curtailments." (Ex. 4, p. 3, l. 6) Mr. Dorris, of Holnam, Inc., also stated that curtailments resulted in reduced cement production, which "creates operating losses in terms of lost revenues from sales of cement." (Ex. 5, p. 2, l. 9)

Obviously, if a customer is not curtailed, those lost production periods do not occur. The avoided lost production was not included in the $2.4 million figure MEG repeatedly uses in this case. Although Mr. Dorris does not describe specific dollars for his company, the other two witnesses clearly state that the figures they report as the savings that they received under Rate 10(M) had not been adjusted to reflect the production losses. (Ex. 3, p. 2, l. 20, 21; and Ex 4, p. 3, l. 6)

A few simple calculations indicate approximately what the 10(M) net savings actually were for each MEG customer. For River Cement, (Ex. 3, p. 2, l. 19) the gross annual 10(M) savings were approximately $800,000/yr. On cross examination, Mr. Rader indicated that during the same period, River Cement incurred approximately $586,000/yr in annual production losses due to those curtailments. (Tr. 50, l. 2 – 22) Mr. Schuette indicated that Lone Star's average savings of $500,000/yr would need to be offset by production losses also. For 1999, those losses were $238,400. (Tr. 63, l. 2 - 25). An average figure was apparently not available.

Thus, for River Cement and Lone Star, the total average annual savings of approximately $1,300,000 would need to be offset by production losses of $824,400, producing a NET savings of $475,600 – or approximately 37% of the gross savings. Mr. Dorris didn't share his savings or production losses with the Commission. However, if the total gross savings for the three customers was $2.4 million, and River Cement and

Lone Star account for $1.1 million ($800,000 and $500,000 respectively), Holnam must have received $1.1 million. If we apply a similar average production loss ratio to $1.1 million, it can be estimated that Holnam had offsetting production losses of about $693,000 – for an annual net savings of approximately $407,000.

If we add the avoided production losses for the three companies ($586,000 plus $238,400 plus $693,000) we see that the total avoided production losses equal $1,517,400; leaving a NET lost savings due to the elimination of the 10(M) rate of $882,600, instead of the claimed $2.4 million.

The Company does not dispute that $882,600 is a significant figure, despite the fact that it would be even lower after consideration of off-setting income tax reductions. However, to claim that the customers have incurred a $2,400,000 loss, when in fact the difference is substantially less, is misleading.

2nd Consequence

The second consequence mentioned by Mr. Brubaker is that "UE no longer has the right to curtail the 40,000 kilowatts of interruptible load that Interruptible Customers previously offered to UE in the event that service to firm customers was jeopardized." (Exhibit 1, p. 13, line 19)

Finally, at the very end of his Direct Testimony, Mr. Brubaker makes a claim that, if everything he suggests were true, begins to look like a reason that at least allows for argument (other than that his clients prefer it to the other options now available). He states that these customers and their 40 MWs of curtailable load are now not available to UE for curtailment. (So far, what he says is true.) He then suggests that this is "extremely valuable" and warns that the ability to "curtail load for reliability purposes ...

puts the potential for brownouts or even blackouts of firm load that much further away from reality." (p. 13, line 23 – page 14, line 1) (He makes no claim that there is any imminent danger of such a problem – he merely raises the specter.)

And that's it! That is the only claim one can find in any of the testimony of MEG – direct or surrebuttal, that even comes close to providing a reason that the Commission could use to justify requiring the Company to offer this discounted service. Some of his surrebuttal testimony attempts to buttress this claim, and most of the surrebuttal merely continues the discussion about the benefits of his proposal in comparison to the eliminated rate, but no additional reasons for adopting that tariff are suggested anywhere.

AmerenUE Capacity

Since this is the only claim made by MEG to support the need for their proposed discounted rate, it should be addressed separately. In his Direct Testimony, Mr. Brubaker merely makes the generic statement that 40 MWs of curtailable load would be a good thing. It would put brown outs and black outs further away. In his Surrebuttal, he gets more specific, claiming that UE had recently "stated that it is short of capacity to serve its current native load." (Exhibit 2, p. 2, line 16)

First - the question of the lost 40 MWs. Mr. Kovach addressed this at the request of the Chair. Clearly, if the MEG customers do not choose to take advantage of one of the Company's new voluntary riders, their 40 MWs of what was once curtailable load is no longer curtailable. However, as Mr. Kovach pointed out, the Company's new curtailment options (Riders M and L) have attracted more than 100 customers with a total of 170 MWs of curtailable load. (Tr. 115, line 6) It is possible that MEG will argue that

the 170 MWs will not be curtailable under the same conditions as the 10(M) curtailable load was. This is irrelevant however. Since the new riders are designed to provide the Company with curtailable load that will make sense both to the customers and the company from an economic standpoint, the Company believes that the new curtailable load will, in fact far more than offset the loss of the MEG's 40 MWs. (Tr. 115, line 12)

Second - the question of the need for additional capacity. Mr. Brubaker claimed in his surrebuttal, that "UE has recently stated that it is short of capacity to serve its current native load." (Ex. 2, p. 2, l 16, 17) That was the extent of Mr. Brubaker's statement. One would think that such a claim would cry out for more detail, if it were true. But he provided no source, no citation, nothing. However, based on MEG's counsel's cross examination of the Company's Mr. Kovach, we can assume Mr. Brubaker was referring to the testimony of Mr. Craig Nelson, in Case No. EM-2001-233. That case requests this commission's approval of the transfer of Union Electric's Illinois operations to AmerenCIPS. Of course, no quote from Mr. Nelson about an alleged capacity shortage was read into the record; nor was the entire testimony of Mr. Nelson offered. Counsel for MEG had Mr. Kovach read very limited portions of that testimony into the record in this case. But Mr. Kovach was not asked to read anything about an alleged shortage of capacity to serve native load. Only those portions concerning the cost of a combustion turbine was referenced. (That point will be addressed below.)

Obviously, the Company has maintained that the transfer of customers and their associated load to AmerenCIPS will free up capacity for AmerenUE. In that case, the Company suggests that that transfer will be at an attractive cost to UE customers. Thus, this proposed transfer is merely between the Ameren operating companies, and will move

the reserve margins of these companies to a more desirable balance. Ameren Corporation has no capacity requirements which will be alleviated by the MEG's 40 MW. There is no evidence that the Company is so short on capacity that it needs the MEG's 40 MWs in addition to the other curtailable load available from Riders M and L.

After all of MEG's evidence is considered, it is obviously that there is virtually no evidence to support their request. We know that they miss the discount; but we know that the lost discount is not as large as MEG claims, once we net out the avoided production losses. We know that they are unhappy that the Company did not agree to the reinstatement of a modified version of the old rate. We know that the Company's new optional curtailment riders apparently are not as attractive to MEG as the old rate, but are attractive to a significant number of other customers. In addition, it is clear that the "alternative" proposed by Mr. Brubaker is virtually the same as the old rate, with only minor modifications that neither the Company nor the Staff find acceptable. And finally, we know that there is no Ameren capacity crisis that warrants giving the MEG what they request just to be able to curtail their 40 MWs. In fact, there is virtually no evidence whatsoever, to give any legal support to the imposition of this rate on the Company. The MEG request should be denied.

ISSUE 2

Should such interruptible rate provide for an average discount of $5.00 per kilowatt per month?

This second issue really needs little discussion. First, it should not be reached, because the Commission should reject the MEG request outright. Moreover, even if the

Commission would decide to require the Company to file tariffs to implement the "rate concepts" proposed by MEG, it is clear that the record is woefully inadequate to justify the $5.00 discount.

The testimony of both Mr. Kovach and Mr. Watkins indicates that the value of curtailable load is much less than the $5.00 proposed by Mr. Brubaker. Mr. Brubaker's number comes from a simple calculation of the capital cost of a combustion turbine assuming a carrying charge rate of 15%. (Exhibit 1, p 11) Mr. Brubaker introduces that figure by stating that "Sometimes, the reasonableness of the interruptible credit is measured by the cost of installing a combustion turbine peaking unit..." (Id. Line 14) (emphasis added) Yet in his surrebuttal testimony, he states that "Since the credit is for the purpose of reflecting the fact that utilities do not install generation capacity to serve interruptible load, the higher a utility's rates, the higher the credit should be." (Exhibit 2, page 11, line 9) Thus, apparently, the credit should be determined by looking at the cost of the avoided capacity addition, but should then perhaps be higher or lower, depending on the relative magnitude of the utility's rates. What the rates should be compared with is unclear. Apparently, Mr. Brubaker suggests that the credit for an AmerenUE customer should be higher because its firm demand charges are higher than some other utilities. Mr. Brubaker provides no real explanation of how this correlation of rates between utilities actually should affect the discount. In contrast, however, the fact that a $5.00 discount is so much in excess of other such discounts provided by utilities within the State of Missouri, is certainly relevant.

Mr. Watkins and Mr. Kovach address why the mere cost of a peaking unit should not be the sole determining factor in setting a discount. Mr. Watkins addresses this in his

testimony at page 3. He notes that Mr. Brubaker's calculation "fails to account for the availability differences." Obviously, a combustion turbine is available at any time; equally obviously, MEG customers did not like to be curtailed at all, and certainly not more than the average of 6 times a year. Mr. Watkins goes into additional methods to determine an appropriate discount, but the bottom line for Staff is that "further analysis of Union Electric Company's current avoided costs..." would need to be performed. (Staff's Statement of Positions on the Issues)

Mr. Kovach noted on Redirect Examination (Tr. 128), that the figures used by Mr. Nelson in his testimony, and attempted to be used by MEG on cross examination as proof of the value of the curtailable load, were merely a capital cost for new capacity. While that figure is appropriate for the use it was put to by Mr. Nelson, it is not appropriate for determining the value of curtailable load. Mr. Nelson was obviously testifying about the cost of providing gas-fired capacity, which, as Mr. Watkins noted, is virtually always available (in excess of 95% of the time). (Tr. 138, l. 25) That cost is not appropriate for determining the value of load that is curtailable only at limited times and for limited durations.

"Further analysis" is clearly needed to determine the appropriate discount, should the Commission decide to require the filing of tariffs with Mr. Brubaker's concepts. This record is inadequate to make that determination – other than to determine that the $5.00 is not correct. It should again be recalled that the burden is on the party proposing this rate. Here, even if the Commission decides that it wants tariffs along these lines, the party proposing those tariffs has clearly not provided sufficient evidence to sustain its burden

of proving the justness and reasonableness of the rate. Accordingly, the rate and the tariff proposal which includes the rate should be rejected.

ISSUE 3

Should such interruptible rate explicitly provide for the number and cumulative hours of interruption allowable?

The Company believes that the structure of an interruptible rate should be such that it is flexible enough for both customers and the Company to meet various operating conditions and the costs incurred or potential costs avoided. It should not explicitly be restricted to a predetermined number and cumulative hours of interruptions, but rather, upon actual operating needs.

Staff disagrees, but recognizes that the number of interruptions and the total number of hours interrupted would have a direct bearing on the discount.

MEG's Statement of Position provides no help whatsoever on this issue. However, a review of Mr. Brubaker's Schedule 1 suggests that he proposes that interruptions for reliability purposes are unlimited, but his "high cost period" interruptions would be limited to 60 hours a year, with some exceptions.

The Company's point is a simple one. Using available voluntary riders, the MEG customers can determine under what conditions they are willing to be curtailed. No artificial number of times or cumulative hours need be set. What could be simpler or better than that type of tariff flexibility?

Again, it is obvious that the MEG customers have not met their burden of proving that the proposed tariff provisions relevant to this issue are reasonable. "Further

analysis" would also be needed here. However, since the party proposing the change has not met its burden, further analysis should not be ordered; the proposal should be rejected.

ISSUE 4

Should such interruptible rate explicitly state the conditions under which interruptions may occur, and, if so, should those conditions be such that they are capable of being objectively verified?

The Company suggests that trying to micro-manage these details is a thing of the past. It could be argued that if a utility could decide when it will interrupt a customer, there should probably be some objective criteria agreed to in advance that could then be verified. But why go to all that trouble? Why guarantee disputes over what the actual condition was on the transmission system or in the power plants, that caused the utility to mandate a reliability interruption? Why try to determine, in advance what the appropriate number of "high cost" periods should be in any given year, and have that number set permanently in the tariff? Whose forecast should be used? Why argue over the "value" of avoided generation cost versus the "cost" of avoided generation additions?

The Company's voluntary market related curtailment price offerings allows customers to make informed decisions, in advance, based on the conditions at the times the offerings are made. The Brubaker proposal requires the Commission to substitute its judgement about the questions set out above. That is just not necessary.

However, if the Brubaker proposal is adopted by the Commission, the Commission will need to answer those questions. Further analysis would need to be done to even come up with all of the questions that need to be asked. The Brubaker proposal

probably assures the Commission that it will be deciding complaint cases related to disputes over curtailments, so it is probably better to try to be explicit in the tariff about how, when, why and how often curtailments can occur. (Even stating the categories of "conditions under which interruptions may occur" sounds daunting.)

Staff seems to agree that rules will need to be set. Staff also points out that the amount of the discount is also tied to how these rules are set. Obviously, further analysis will need to be done to determine those rules and the resulting amount of the discount. The Company suggests that there has been no showing of system benefits which would result from these required efforts.

Once again, the MEG's Statement of Position gives us no help on this issue. However, since Mr. Brubaker's proposal seems to set all sorts of limits, conditions, times, election periods and definitions of "high cost periods", one can assume MEG answers this issue in the affirmative.

ADDITIONAL ISSUE

Even if the Commission determines that a tariff similar to the "Brubaker Proposal" would be in the public interest, what authority does the Commission have to require Union Electric Company d/b/a AmerenUE to file a tariff implementing that proposal?

This is an excellent question, and one that seems to have no clear answer. It is clear that the Commission has broad powers and broad discretion. Staff can no doubt cite countless cases supporting that proposition. However, the Company has found no case

where the Commission has required a utility to file tariffs other than modifications of tariff sheets originally filed by the utility.

Even the statutory references to Commission authority seem to presume that the utility has initiated the filing of the tariff. The Commission obviously fixes rates after a tariff is filed and hearings are held (Section 393.150). The Commission has the "power to require every ... electric corporation ... to file with the Commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced ...(Section 393.140 911) But that section seems to merely require that rates already filed pursuant to other sections and then approved by the Commission may be required to be filed as finally approved.

Section 393.140 (5) gives the Commission the authority to review "upon its own motion or upon complaint" the "rates or charges or the acts or regulations" of utilities to see if they are "unjust, unreasonable, unjustly discriminatory or unduly preferential or in any wise in violation of any provision of law...." If so determined, the Commission "shall determine and prescribe the just and reasonable rates and charges thereafter to be in force for the service to be furnished, notwithstanding that a higher rate or charge has heretofore been authorized by statutes..." This seems to get close, but doesn't really say that the Commission can force a utility to provide a service it does not wish to provide.

There may be a legitimate question of whether a commission can go beyond requiring that a utility provide "safe and adequate service at a just and reasonable rate" to a particular group of customers. Clearly, the Commission can determine whether the service being offered is safe and adequate and can direct changes in the utility's practices to insure that the Commission's standards are being met. Moreover, it is clear that the

Commission can direct that a utility raise or lower its rates. But whether a commission can direct an entire tariff filing, when none had been first filed by the utility, is a different question.

While the Company has serious concerns about this issue, it will not raise the lack of such authority in this case. The Company suggests that the MEG customers have the burden to assure the Commission that they do have that authority. However, because of the Stipulation previously referenced, the Company believes it has waived its right to object to the MEG filing on the grounds that this question suggests. Let there be no misunderstanding, however. The Company strongly believes that the effect of this MEG filing is to renege on the agreement in the stipulation to eliminate the 10(M) rate. The Brubaker proposal is, and is admitted by the MEG to be, merely a slight modification of that rate. The proposal does nothing to eliminate the problems with the rate that had been raised by the Staff in the EO-96-15 case, and which caused the Company and Staff to press for its elimination. The MEG customers agreed to its elimination and received the other benefits that resulted from the settlement of the entire case. MEG was authorized by the Stipulation to file "alternative" proposals with the Commission without objection by the Company or the Staff. Clearly, a filing that merely copied the old rate with minor tweaking, is not an alternative.

However, the Company committed not to object on procedural grounds to such an application by MEG. Although it could be argued that this is a jurisdictional question and not procedural, the Company will not make that distinction. If the Commission decides to order the filing of such tariffs, the Company will not object or appeal on the grounds that the Commission did not have the statutory authority to require such a filing.

However, as discussed above, the Company clearly does not believe that there is sufficient evidence to support a decision imposing this tariff on it. The Company's position on the question of the authority of the Commission to impose a rate on a utility is different from the question of whether that decision is factually and legally supportable. In addition, the Company believes it will have the right to file proposed modifications or even file to eliminate the tariff if it later believes that the tariff is not working, or for other appropriate reasons.

WHEREFORE, for the reasons set forth above, Union Electric Company, d/b/a AmerenUE requests that the Commission reject the proposal filed by the MEG Interruptibles, and close this case with no further action being authorized.

Dated: January 23, 2001

Respectfully submitted,
UNION ELECTRIC COMPANY
d/b/a AmerenUE

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via Federal Express mail on this 23th day of January, 2001, on the following parties of record:

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February 9, 2001

VIA FEDERAL EXPRESS

FILED[2]
FEB 13 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: MPSC Case No. EO-2000-580

Dear Mr. Roberts:

This letter is to inform you of a correction to the **Initial Brief of Union Electric** filed on January 23, 2001 on behalf of Union Electric Company, d/b/a AmerenUE, in the above matter. The first line on page 16 should read "Lone Star account for 1.3 million..." instead of 1.1 million. The corrected page is enclosed for your convenience.

Kindly acknowledge receipt of this letter by stamping a copy of the enclosed letter and returning it to me in the enclosed self-addressed envelope.

Very truly yours,

James J. Cook
Managing Associate General Counsel

JJC/mlh
Enclosures

cc: Parties on Attached Service List

Exhibit G

Lone Star account for $1.3 million ($800,000 and $500,000 respectively), Holnam must have received $1.1 million. If we apply a similar average production loss ratio to $1.1 million, it can be estimated that Holnam had offsetting production losses of about $693,000 – for an annual net savings of approximately $407,000.

If we add the avoided production losses for the three companies ($586,000 plus $238,400 plus $693,000) we see that the total avoided production losses equal $1,517,400; leaving a NET lost savings due to the elimination of the 10(M) rate of $882,600, instead of the claimed $2.4 million.

The Company does not dispute that $882,600 is a significant figure, despite the fact that it would be even lower after consideration of off-setting income tax reductions. However, to claim that the customers have incurred a $2,400,000 loss, when in fact the difference is substantially less, is misleading.

2nd Consequence

The second consequence mentioned by Mr. Brubaker is that "UE no longer has the right to curtail the 40,000 kilowatts of interruptible load that Interruptible Customers previously offered to UE in the event that service to firm customers was jeopardized." (Exhibit 1, p. 13, line 19)

Finally, at the very end of his Direct Testimony, Mr. Brubaker makes a claim that, if everything he suggests were true, begins to look like a reason that at least allows for argument (other than that his clients prefer it to the other options now available). He states that these customers and their 40 MWs of curtailable load are now not available to UE for curtailment. (So far, what he says is true.) He then suggests that this is "extremely valuable" and warns that the ability to "curtail load for reliability purposes ...

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE
STATE OF MISSOURI

In the Matter of an Investigation Into an Alternative Rate Option For Interruptible Customers of Union Electric Company d/b/a AmerenUE	))))	Case No. EO-2000-580

REPLY BRIEF OF UNION ELECTRIC COMPANY

COMES NOW Union Electric Company (the Company or UE) and submits the following as its Reply Brief in the above styled matter:

Commission Authority

Both the Commission Staff (Staff) and the MEG Interruptibles (MEG) submitted Initial Briefs in this matter. Staff's Initial Brief begins, and MEG's Brief ends with analyses of the question asked by the Commission concerning its legal authority to require the Company to implement a tariff such as the one proposed by MEG. The Staff and MEG argue that the Commission does have such authority. Without necessarily agreeing with these legal analyses, the Company does not argue in this case that the Commission is without legal authority to implement a tariff which is opposed by a utility. As previously stated in its Initial Brief, however, the Company strongly argues that a decision by the Commission approving the tariff proposed in this case would be a decision totally lacking in legal and factual support. The Company does not argue, however, in this matter, that the Commission is without the authority to impose such a tariff.

Exhibit H

Merits of the MEG Proposal

The Staff is opposed to the interruptible rate proposed by MEG. The Company will not re-argue the points raised by the Staff in its Initial Brief.

MEG, of course, supports its proposal. The Company will address some of the points raised in MEG's Initial Brief.

In the Stipulation and Agreement that resolved EO-96-15, the Company and MEG agreed to a very simple sentence, as quoted in Schedule 2 to Mr. Kovach's Rebuttal Testimony, Exhibit 6: "The Company and the Industrials will enter into good faith discussions regarding alternative interruptible rate options." The sentence followed a three paragraph discussion of the details of the termination of the Interruptible Power Rate 10(M). MEG claims that it proposed "certain interruptible rate concepts to be incorporated in an alternative interruptible tariff (the so-called "Brubaker Tariff")." This was described as being "[I]n the exercise of their obligation for 'good faith' negotiations." MEG Brief, p.2. MEG then claims, in an obvious attempt to show "bad" faith on the Company's part, that "UE declined to respond to the Brubaker proposal other than to dismiss the concepts embodied in the proposal as not being of interest to U.E...." Id. P 4.

Staff's description of the "Brubaker proposal" is particularly apt:

> ... Staff was under the impression that if MEG subsequently decided to make its own proposal, MEG would actually be offering something new. Unfortunately, the MEG proposal at issue is nothing more than a not-so-veiled attempt to have the Commission re-institute a tariff provision that was fairly negotiated away by MEG, presumable in exchange for what MEG regarded as compensating benefits. The fact is that the MEG proposal is, in essence, the same as the now-defunct Rate 10M. ... Moreover, to the extent that the MEG proposal modifies Rate 10M, the overall effect is to put even tighter constraints on the Company...
>
> Staff Brief, p. 6.

Little wonder, then that the Company did not respond favorably to MEG's "alternative" proposal. Unfortunately, even in light of specific contradictory testimony by Mr. Kovach, (Ex. 6, p. 4) and the cross examination of Mr. Brubaker (Tr. p. 33, 34), MEG continues to claim that the Company "declined to respond to the Brubaker proposal..." (Brief, p. 4) This is simply not true. A closer reading of the Brief and Mr. Brubaker's answers to cross examination on page 34 of the transcript, reveal that MEG believes that failure to use the slightly modified 10M rate as the basis for discussions was, in fact a failure to respond. The Company clearly responded, as outlined on page 33 and 34 of the transcript. MEG didn't like the response, so it continues to claim that no response was provided.

MEG briefly "described" the Company's new Rider M. The description is not wholly accurate. Rider M is voluntary; however, once a contract is signed, the customer is obligated to curtail, pursuant to the terms of the agreement, which does contribute to enhanced system reliability. Moreover, the prices offered by UE under this rider are not arbitrary, but are guaranteed to the customer by contract. The implication that this is some sort of unregulated free for all, totally outside the purview of the Commission, is just not true.

On page 5 of its Brief, MEG again raises the specter of "annual increase in power cost to these customers of approximately $2.4 million." This claim was debunked on cross-examination, and revealed to be grossly overstated in the Company's Initial Brief. Clearly, if MEG customers previously received a discount (which Staff has clearly stated many times was not cost-based) and now they do not get that discount, they will pay more. However, they have not actually sustained increased operating expenses of this

amount. Their claim is based on a gross bill increase figure which does not take into account the savings from no "lost production" that would be gained absent curtailments. In fact, the Company has shown from the MEG's own numbers, that the net increase in these customers' bills is only about 1/3 of the amount claimed!

Moreover, even if the customers should be able to get the old tariff back, the Company and the Staff are adamant that the discount which results in the $2.4 million figure is too generous. If the Commission would agree to the Brubaker proposal, but at a more appropriate level of discount, the Staff has made it clear that it does not have the information to determine what that discount should be. However, any discount near the levels of similar rates from other utilities which are lower and only paid during months of curtailment, would obviously provide less than $2.4 million to these customers. In fact, it's not clear that the lower discounts offered by other utilities would even be sufficient to offset the admitted production losses incurred by these customers during curtailments.

All of this suggests very strongly, that the Brubaker proposal should be rejected, and a "cut-the-baby-in-half" decision that calls for the adoption of a form of the Brubaker proposal, but only after a Staff study, should not be adopted by the Commission.

Reliability and Capacity

MEG's first point of Argument is the following: "System Reliability Should Be the Primary Concern in Designing a Curtailment Tariff." A theme running through MEG's testimony and brief, is that UE has a shortage of capacity and the Brubaker proposal is just the answer.

It should be remembered that Ameren, including AmerenUE, AmerenCIPS and AmerenEnergy, have the responsibility to assure that the Ameren system has sufficient

capacity to meet its various obligations. MEG's strategy to get back its discount, is to raise a capacity concern, claim that it has the answer, and threaten the Commission with dire consequences if its proposal is not adopted. In fact there is no capacity problem that requires providing the three MEG customers with unwarranted discounts in order to save the system.

Ameren companies have filed with various regulatory commissions to allow the transfer of the UE Illinois territory to AmerenCIPS. This will shift that part of UE's load to CIPS and free up some capacity for the remaining UE load, which will then be solely in Missouri. It is obvious that a public utility must always be alert to the need for and the cost of additional capacity. The Company has made a filing that will address that concern. To turn that prudent planning into a claimed potential crises, for which we must give into the demands of these customers for an unjustified discount, is simply wrong. The filing of a case to maintain a more desirable balance of capacity resources, should not be used in the manner suggested by the MEG.

Moreover, the Company is not asking the Commission to merely adopt the proposed transfer with no other programs in place. The new riders (L and M) are available and have been attracting significant participation. These more up-to-date, and customer friendly options have already attracted significantly more curtailable load than the old 10(M) rate.

MEG purports to have a better handle on the capacity needs of the Company than the Company, itself, or the Commission Staff. By declaring an emergency, raising the concern of California-type problems and then graciously suggesting its own proposal as the only option to save the Company, MEG has seriously misstated the state of affairs.

First, there is no emergency. Neither the Company nor the Staff has suggested that there is any reason to be so concerned about UE capacity, that the MEG proposal must be adopted. Secondly, the reference to California (Brief, p. 8) is wholly inappropriate. This Commission is well aware of the problems in California, and well knows that Missouri's regulatory history and Missouri's utility actions, are significantly different. Thirdly, MEG's 40 MW, made available at a discount that is seriously overstated, would do little, if anything to alleviate any serious capacity shortfall. And finally, the new voluntary riders have provided more than enough capacity to offset any loss from the elimination of the old 10(M) rate.

MEG "note[s] that "UE witness Kovach testified that Illinois presently has in place a mandatory curtailment tariff similar to the former Rate 10(M), (TR p. 122, line 21). Accordingly, our Illinois neighbors have a benefit that U.E. is denying to its Missouri customers." (Brief, p. 7) Incredibly, MEG failed to continue quoting from Mr. Kovach's answer to Commission Schemenauer. Picking up exactly from where MEG stopped, on line 21 of page 122 of the Transcript: "Yes, we had a similar tariff that was in effect in both states. And we would have taken similar action in Illinois except the legislation that's in effect in Illinois today precludes us from doing so at this time. But over the long run it would be our intention to move in the same direction in Illinois as we have in Missouri." Thus, since Illinois enacted a restructuring bill that has avoided the disasters of California, and which restricts the elimination of tariffs in the short run, as part of the overall restructuring plan, MEG would apparently have Missouri freeze all of its tariffs, also. Of course MEG fails to mention that this would be without the other several hundred provisions of the Illinois law.

"Union Electric Proposals (sic)"

MEG continues to have trouble remembering what is a proposal and what is in the tariffs. The "Brubaker proposal" is a proposal to reinstate the "now-defunct" Rate 10(M). Riders L and M are not "proposals," but are Commission-approved tariffs that are in effect, currently available, and providing more curtailable load than the old Rate 10(M). Union Electric's "proposals" are not what is before the Commission. Union Electric's Riders L and M were previously presented to the Commission and approved. Rider L was part of the Stipulation that eliminated the old Interruptible Rate 10(M), and Rider M was approved by the Commission separately.

This section of MEG's Initial Brief complains that the new Company riders "effectively deregulate the sale of curtailed customer power." Brief, p. 10. MEG tries to make it sound like the Company forcefully curtails a customer and then sells that power at a profit, leaving the customer high and dry. That is simply not true. Riders L and M are totally voluntary. If a customer does not want to be curtailed; if a customer does not believe the prices offered by the Company are high enough; if there are any terms and conditions the customer does not like; if the customer is opposed to the very concept of the Riders, the customer merely chooses not to sign up for the Riders. If the customer thinks it's a good deal, he can sign up for it. Will these Riders result in the customer realizing the same profit he might get if there were a totally deregulated system? Perhaps not. Are the significant risks that are obviously present in a totally deregulated system likely to fall on customers who chose to take one of these Riders? Obviously, not. Are Riders L and M attempts to bring about total deregulation to Missouri? No. Is Missouri

thus precluded from trying limited experiments to see what does and does not work, as we approach a new era of utility regulation? One would hope not.

But since the Company's new Riders do not provide the same level of discount to these three customers as they voluntarily gave up, MEG claims that the Company's riders are some kind of *risky schemes* with pricing which is "determined solely by U.E. without Commission oversight or regulation." MEG Brief, p. 12. That, again, is simply not true. Even Mr. Brubaker, himself, admitted that the new riders are not "unjust." On page 129 of the transcript, he stated, in response to a question from Chair Lumpe: " I wouldn't say that they are unjust. I would say they are entirely different from the reliability based rate 10M, and they certainly don't seem to be usable by the customers who provided the reliability interruptions under 10M."

There should be no misunderstanding. Union Electric is serious about making sure that it is a highly reliable utility. As stated by Mr. Kovach in response to questions by Chair Lumpe, the Company is "not doing anything to shirk our responsibility in that area." Tr. p. 121, line 19. "We do intend to provide firm service to the customers in our service territory, those that want firm service." Id. Line 5. Clearly, the Staff was not concerned that the elimination of the old 10(M) rate would cause a reliability problem. Nor is the Staff concerned that the rejection of the reinstatement of a slightly modified 10M causes any reliability problems. Moreover, <u>even if there were such concerns</u>, the adoption of the Brubaker proposal is not the appropriate answer.

<u>Further Studies</u>

The Staff has indicated throughout its testimony and Initial Brief, that if the Commission were to want to adopt the Brubaker proposal, a variety of additional studies

would be required to determine the appropriate discount, and other details of the tariff. The Company respectfully requests that the Commission not attempt to compromise this case by directing the parties to conduct such studies and determine the "appropriate" level of discount and other details. The Company believes, and suspects that the Staff believes, that our plates are too full for such an exercise.

CONCLUSION

The customers who are making this request are three customers, out of over a million, all of whom would probably like lower rates. These three customers are, without a doubt, important customers of Union Electric Company. They provide a significant amount of revenue to the Company, and the Company does not enjoy being at odds with them before this Commission. However, not every customer request is justified. Not every customer desire can be met. Particularly in a regulated world, utilities must work with their Commissions and those Commissions' staffs to provide reliable service at a fair and reasonable price. The Company and the Commission's staff believe that the MEG's request would not be fair or reasonable. It should not be adopted.

Dated: February 20, 2001

Respectfully submitted,
UNION ELECTRIC COMPANY
d/b/a AmerenUE

By: _____

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James J. Cook

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of an Investigation Into an Alternative Rate Option for Interruptible Customers of Union Electric Company d/b/a AmerenUE	))))	Case No. EO-2000-580

RESPONSE OF UNION ELECTRIC COMPANY
TO
MEG MOTION FOR ORAL ARGUMENT

Union Electric Company states the following in response to the Motion of MEG Interruptibles for Oral Argument:

1. The legal and factual issues in this matter are no more complex, and in fact, are much less complex, than most cases that come before this Commission.
2. The Company continues to strongly object to the mischaracterization of the Company's capacity, and the scare tactics that MEG continues to pursue. There is no "power shortage" and there is no "lack of system reliability."
3. There is no confusion in regard to the Brubaker tariff.
4. The Company suggests that although the granting of the Motion will not adversely impact any party, it sees little that will be gained by granting the Motion. The Commission well knows MEG's position. Hearing it personally, again, will do little to help the Commission reach a decision.

Exhibit I

Although Union Electric does not oppose the request for oral argument, it sees no reason to grant the request.

Date: March 1, 2001

Respectfully submitted,

UNION ELECTRIC COMPANY
d/b/a AmerenUE

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of an Investigation Into an Alternative Rate Option for Interruptible Customers of Union Electric Company d/b/a AmerenUE	))))	Case No. EO-2000-580

REQUEST FOR LEAVE TO FILE
SUPPLEMENTAL STATEMENT

COMES NOW, Union Electric Company, d/b/a AmerenUE ("the Company") and requests leave from the Commission to file the attached Supplemental Statement.

The brief Supplemental Statement attached to this Request explains why this request is being made at this time. The Company suggests that the acceptance of this Statement will not harm any party; and the Company will, of course, not object to the submission of a reply from any of the other parities to this case.

WHEREFORE, for the reasons set forth above and in the Statement itself, the Company respectfully requests that this Supplemental Statement be accepted by the Commission in this matter.

Date: March 19, 2001

Respectfully submitted,

UNION ELECTRIC COMPANY
d/b/a AmerenUE

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Exhibit J

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of an Investigation Into an Alternative Rate Option for Interruptible Customers of Union Electric Company d/b/a AmerenUE	))))	Case No. EO-2000-580

SUPPLEMENTAL STATEMENT

COMES NOW, Union Electric Company, d/b/a AmerenUE ("the Company") and as a Supplemental Statement, states the following:

In various pleadings and testimony in this case, AmerenUE has maintained that the Company is not facing a capacity crisis. These statements have been made in response to MEG claims that the Company is facing such a crisis, and therefore the 40 MW of load which MEG wishes to place on its proposed "interruptible" rate are required to help alleviate that situation.

UE's position has been that no such crisis exists; but to the extent that the Company needs to plan for additional capacity, the MEG's proposal is not the appropriate answer.

The Company asks leave to file this Supplemental Statement because recent studies conducted by the Company have suggested that, because of constrained transmission facilities, the Company's import capacity for Summer 2001 is severely limited. This has caused the Company to re-evaluate the reserve margin it should maintain, in order to assure continued reliable service to its customers.

The recent studies and re-evaluation of the Company's capacity needs will likely result in new decisions in the near future concerning both short and long term capacity

additions. As with any portfolio of generating capacity, a diverse range of options will be considered. Economics and reliability will, of course, be important considerations as decisions are made. Included in that range of options may very well be new market-based curtailment options and enhancements of current market-based curtailment options, as well as capacity additions and purchases. Clearly, options that will not be considered, would be those, such as the Brubaker proposal, which are uneconomical and burdensome.

The Company brings this matter to the Commission's attention in order that the Commission may be fully apprised of the most recent developments in this area -- largely arising subsequent to the hearing in this case. The Company is concerned that, at the surface, the position taken in this case will appear inconsistent with actions the Company anticipates taking in the near future. This is not the case.

The Company's opposition to the Brubaker proposal is unchanged. Even in light of the Company's recent studies and anticipated need for additional capacity, the Brubaker proposal does not offer an economical or workable source of capacity. In addition, as previously developed on the record of this case, MEG's 40 MWs of interruptible load has already been more than offset by the new curtailable load available under the new Riders L and M. MEG's 40 MWs will be of no value whatsoever if that 40 MWs comes at the cost included in the Brubaker proposal.

The Company suggests that this clarification of the Company's capacity situation addresses a question that is largely irrelevant to a decision in this case. The issues listed by the Staff, and addressed by the Staff and Company in this case do not include a question of whether AmerenUE needs additional capacity. Rather the basic issue is whether the Company should be forced to acquiesce in the demands of these three

customers for an uneconomical discount, with restrictive conditions, in order to obtain the ability to interrupt 40 MWs of their load. However, though irrelevant to this case, the MEG raised the matter several times, albeit without any specific evidence to support their claims.

The Company believes that this clarification is needed to allow the Commission to better understand what might otherwise appear as inconsistent positions.

WHEREFORE, for the reasons stated above, AmerenUE hereby requests that this clarification of its capacity situation, as that may be relevant to a decision in this case, be brought to the attention of the Commission before a decision is reached in this case.

Date: March 19, 2001

Respectfully submitted,

UNION ELECTRIC COMPANY
d/b/a AmerenUE

By _____

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BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of an Investigation	)	
Into an Alternative Rate Option for	)	
Interruptible Customers of Union	)	Case No. EO-2000-580
Electric Company d/b/a AmerenUE	)	

RESPONSE OF UNION ELECTRIC COMPANY TO THE MEG INTERRUPTIBLES' MOTION TO REOPEN THE RECORD AND MOTION TO IMPLEMENT CURTAILMENT TARIFF ON AN INTERIM BASIS

COMES NOW, Union Electric Company, d/b/a AmerenUE ("the Company") and submits this Response to the MEG Interruptibles' Motion to Reopen the Record for the Admission of Additional Evidence and to the Motion to Implement Curtailment Tariff Proposed by MEG Interruptibles on an Interim Basis in the above styled case.

The Company opposes both motions. Nothing contained in the Company's Supplemental Statement, or the Company's Request for Leave to Withdraw Application for Transfer of Assets in Case No. EM-2001-233, and certainly nothing in the newspaper article attached to the motions warrants reopening the record in this case or forcing the Company to offer the unwarranted discounts included in the Brubaker proposals on an interim basis. The Company suggests that the requested action is unnecessary.

Motion to Reopen the Record for Admission of Additional Evidence and Authorize Further Proceedings

The "Supplemental Statement" can either be made a part of the record in this matter, or not. As indicated in that statement, it was submitted by the Company merely as an update of the Company's capacity situation. Also as indicated therein, although the Company's capacity situation was **not** an issue in the instant case, it had been raised

Exhibit K

several times by MEG, usually with dire predictions, in an effort to justify its uneconomical discount proposal. The Company had, in response, stated its position concerning its capacity plans, which were accurate at that time. Later developments, however, caused the Company to re-evaluate the reserve margin it believes it should maintain. That fact would "likely result in new decisions in the near future concerning both short and long term capacity additions." The Supplemental Statement is merely an effort to keep the Commission fully apprised of these developments.

It was, and is, the Company's position that this issue is irrelevant to the proposal by MEG. MEG appears to be attempting to turn this simple statement about the need to make capacity addition decisions into an opportunity to force the Company to take MEG's "curtailable" load at an uneconomical discount.

The newspaper article, attached to MEG's pleading, provides virtually nothing of relevance to the instant case. It is an article about a bill pending in the Missouri General Assembly, of which this Commission is fully aware. The only portion of the article claimed to be relevant by the MEG in its pleading, is the statement of Mr. Gary Rainwater, an officer of Ameren Corporation, to the effect that the Company intends to purchase 450 MWs of power on the open market to meet its summer loads. MEG claims that this statement "further supports the contentions of the MEG Interruptibles in this case." (MEG Motion, p. 2) This is not news to the Commission. The Commission has known since October, 2000, that this was possible. In its initial filing in Case No. EM-2001-233 (October 21, 2000), the Company had informed the Commission and other parties that if Commission approval were not possible by February 15, 2001, the Company would need to seek capacity from the wholesale market. The Commission

Staff and the Office of Public Counsel even participated in the development of the Requests for Proposals (RFPs) that were sent out seeking such capacity.

The newspaper article provides nothing of relevance to the Commission. It need not be added to the record. In addition, while not necessarily questioning the accuracy of the article, the Company suggests that a variety of legal objections would normally accompany such an attempt during a hearing – "hearsay" being only the first and most obvious. The admission of a newspaper article in the record of a proceeding would set a precedent the Commission might want to avoid.

The third item MEG asks to be made a part of this record is the Company's pleading asking to dismiss EM-2001-233, the proposed transfer mentioned above. MEG uses this filing to claim that the Company "may be required to purchase a portion of its requirements in the wholesale market which could prove very costly and almost certainly will exceed the cost UE would incur in implementing the curtailment tariff recommended by Maurice Brubaker in this proceeding." (MEG Motion, p. 2)

It must first be made very clear that, the wholly unsupported speculation about the cost of the Company's purchased capacity and energy is absolutely wrong! MEG assumes that the wholesale market price will "almost certainly" exceed the cost of the Brubaker discount. In fact, the cost of the Brubaker proposal exceeds the cost of the capacity and energy UE has under contract, pursuant to the RFP process for the summer of 2001, by a factor of four or five times! MEG attempted to frighten the Commission by raising fears of outrageous wholesale costs that could be offset by the "reasonable" Brubaker proposal. Mr. Watkins and Mr. Kovach each provided testimony on the cost of the Brubaker proposal – indicating costs of between $1,000 and $1,250 per MWH for

capacity only. (Kovach, Ex. 6, p. 12; Watkins, Ex. 7, p. 5) In fact, the Brubaker proposal would cost the Company over five times the wholesale rate it has been able to obtain. And the wholesale rate is for capacity and energy, instead of the capacity only (plus minor fuel savings) provided by MEG's plan.

The Company will be providing the details of the wholesale agreement to the Commission Staff pursuant to the Stipulations and Agreements in Case Nos. EO-99-365 and EA-2000-37. Given the wide disparity between the costs the Company will actually incur (and which will be verifiable by the Staff) versus the costs proposed by the MEG, there is certainly no reason to re-open this case to examine the matter separately. MEG's suppositions are simply wrong, and wrong by a large margin.

It should also be remembered that the Company has never claimed it would not need to purchase capacity on the wholesale market. The Commission is well aware that the Company has continuously examined, and continues to examine a wide range of capacity addition options. This was true when testimony in this case was being prepared, when it was being presented and it is true today. The question is not whether the Company needs capacity. The question is whether MEG's 40 MWs should be forced on the utility, at an uneconomical discount with an unworkable administrative structure.

Motion to Implement Curtailment Tariff Proposed by MEG Interruptibles on an Interim Basis

At virtually every turn, MEG has asked that its discount be implemented on an interim basis. This is not a surprise, given the magnitude of the discount these customers would receive, at the expense of other customers (as explained at length in the record of this case). However, just as before, nothing in MEG's filings warrants the action requested.

Moreover, if the discount were implemented on an interim basis, and, after lengthy, expensive studies and litigation, it were to be determined that the discount is unwarranted, will MEG repay the amounts they received from that "interim" tariff? The Company has not seen that offer.

MEG apparently wishes to turn this case into a capacity planning workshop for AmerenUE. Under its suggestions, put forth in these two motions, the Company would apparently be required to present evidence to prove ... what, is not exactly clear ... but apparently it would include a determination where exactly the Brubaker discount would place MEG's 40 MWs in AmerenUE's capacity addition portfolio. The Commission should not allow MEG to dictate the Company's and this Commission's future in such a way.

MEG made a proposal. The Company and the Staff found that proposal wanting, for a variety of reasons. Virtually none of those reasons have been modified in any way by the "evidence" presented by MEG in its filing. MEG's requests should be denied, and the Commission should reject the Brubaker proposal, as well.

Date: April 23, 2001

Respectfully submitted,
UNION ELECTRIC COMPANY
d/b/a AmerenUE

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