

**FILED**

**MAR 25 2004**

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

**In the Matter of the Application of Union )  
Electric Company d/b/a AmerenUE for )  
an Order Authorizing the Sale, Transfer )  
and Assignment of Certain Assets, Real Estate )  
Leased Property, Easements and Contractual )  
Agreements to Central Illinois Public )  
Service Company d/b/a AmerenCIPS, and )  
in Connection Therewith, Certain Other )  
Related Transactions. )**

**Missouri Public  
Service Commission**

**Case No. EO-2004-0108**

**AMERENUE'S REPLY TO STAFF'S REQUEST FOR REASONABLE TIME TO  
REVIEW SUPPLEMENTAL SURREBUTTAL TESTIMONY AND RESPOND**

COMES NOW Union Electric Company d/b/a AmerenUE, and hereby files this  
Reply in response to the above-referenced Request.

1. In reply to paragraph 1, AmerenUE states that Mr. Weiss is not scheduled to testify on any issue addressed in his proposed Supplemental Surrebuttal Testimony until nearly a week after hearings in this case commence, on Wednesday, March 31, 2004. In further reply, AmerenUE states that there are no additional workpapers supporting Mr. Weiss's proposed testimony, and states that the undersigned counsel for AmerenUE so advised counsel for Staff on Wednesday, March 24, 2003. Specifically, Staff was advised that Mr. Weiss used workpapers that had previously been provided to Staff 20 days ago, on March 4, 2004. The undersigned counsel for AmerenUE also advised counsel for Staff that the Company has no objection to moving the "allocation of liabilities" testimony, including that of Mr. Weiss, to the last day of hearings on Friday, April 2, 2004, a date that is 10 days after the Company filed its Motion for Leave to submit the proposed testimony.

2. In reply to paragraph 2, AmerenUE states that its Motion reflects that it understood as of March 15 (Staff says March 12) that there remained misunderstanding on the issue of common liabilities. The Company provided Staff with what is essentially the same information reflected in Mr. Weiss's Schedule GSW-3 the week of March 15. The Company did not, as Staff alleges, delay "until one day prior to the hearing to submit additional information." Rather, the Company filed its motion on March 23 relating to the proposed testimony containing in substance the same information Staff has already had for some time now. Staff's statement in this regard implies that Staff would have only one day to prepare to cross examine Mr. Weiss on the proposed testimony, when in fact Staff would have at least one week, and more, if this issue is moved to the last day of hearings.

3. In reply to paragraph 3, AmerenUE states that Staff is mistaken with regard to the application of 4 CSR 240-2.130(7) to these facts. That Rule specifically contemplates that surrebuttal testimony will respond to matters raised in rebuttal. 4 CSR 240-2.130(7)(D). It was Staff's rebuttal testimony that initially raised Staff's concerns about common liabilities. As the Company's Motion indicates, it was not until after surrebuttal testimony was filed that the Company understood that there continued to be a misunderstanding, despite having submitted surrebuttal testimony on that issue including workpapers supporting that surrebuttal testimony.

4. In reply to paragraph 4, AmerenUE states that 4 CSR 240-2.130(8) contemplates that the presiding officer may allow supplementation of testimony. AmerenUE further states that depriving the Commission of clarification of matters already contained in other pre-filed testimony, which was basically made known to Staff

at least one week ago and for which evidence is not scheduled to be presented until a week from now, in fact deprives the Commission of information. There is nothing new here, other than a 3-page Schedule that gives the Commission complete information to help it make a proper decision in this case.

5. In reply to paragraph 5, since there are no new issues or information not already known to Staff some time ago, Staff has had a fair opportunity to review and respond. The Company further states that Staff has at another week until this issue is scheduled to be presented. And, as noted above, the Company has no objection to moving the allocation of liabilities issue to the last day of hearings, April 2, 2004. That will give Staff even more time.

6. In reply to paragraph 6, AmerenUE states that everything in the proposed testimony is consistent with prior testimony and that the simple, three-page schedule quite clearly is helpful to the Commission. Nothing about this request has deprived any party of an opportunity to review or respond.

7. In Reply to paragraph 7, the proposed testimony does not add issues or change the Company's prior evidence. It simply helps everyone, including the Commissioners, understand what has become a potentially complex case.

8. In reply to paragraph 8, the Company questions why Staff opposes the proposed testimony if Staff believes it supports Staff's case.

9. In reply to paragraph 9, see the Company's replies above. Also, the Company simply requested expedited treatment so that this matter could be taken up, at the latest, at the beginning of the hearings which would give everyone nearly one week before Mr. Weiss was scheduled to testify on these issues to prepare, as necessary.

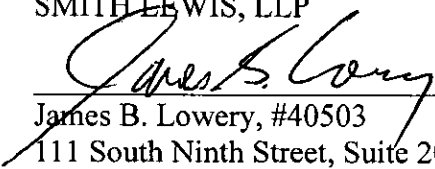
10. In reply to paragraph 10, none of this information represents a change in how the Company's earlier testimony always treated the liability accounts at issue. The Company has already explained why the need for this further explanation did not come to light until after surrebuttal testimony had been filed.

11. In reply to paragraph 11, the Company denies that Staff has any basis to seek dismissal of this case, a request which itself would be patently untimely. As discussed above, the proposed testimony has not prejudiced anyone.

12. In reply to Staff's prayer for relief, the Company has advised Staff that there are no additional workpapers, has offered to move this issue back to Friday, April 2, 2004, and while the Company does not believe there is any further discovery that could be done that could not have been done in the past few weeks, the Company hereby indicates its willingness to attempt to accommodate in good faith reasonable discovery Staff may desire in response to the proposed testimony.

WHEREFORE, the Company renews its request for leave to file the proposed supplemental surrebuttal testimony of Gary S. Weiss.

SMITH LEWIS, LLP



James B. Lowery, #40503  
111 South Ninth Street, Suite 200  
Columbia, MO 65205-0918  
(573) 443-3141  
(573) 442-6686 (facsimile)  
[lowery@smithlewis.com](mailto:lowery@smithlewis.com)

Steven R. Sullivan, Senior Vice President  
Regulatory Policy, General Counsel and  
Secretary, Mo. Bar. No. 33102  
Joseph H. Raybuck, Mo. Bar. No. 31241  
Managing Associate General Counsel  
Edward C. Fitzhenry  
Associate General Counsel

Ameren Services Company  
One Ameren Plaza  
1901 Chouteau Avenue  
P.O. Box 66149 (MC 1310)  
St. Louis, MO 63166-6149  
314-554-2976  
314-554-4014 (fax)  
[ssullivan@ameren.com](mailto:ssullivan@ameren.com)  
[jraybuck@ameren.com](mailto:jraybuck@ameren.com)  
[efitzhenry@ameren.com](mailto:efitzhenry@ameren.com)

**Attorneys for Union Electric Company**

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served on the following parties of record, on this 25<sup>th</sup> day of March, 2004, as set forth below:

By Hand Delivery to:

General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 65102  
[gencounsel@psc.state.mo.us](mailto:gencounsel@psc.state.mo.us)

Office of the Public Counsel  
P.O. Box 7800  
Jefferson City, Missouri 65102  
[opcservice@ded.state.mo.us](mailto:opcservice@ded.state.mo.us)

By Email to:

Robert C. Johnson  
Lisa C. Langeneckert  
The Stolar Partnership LLP  
911 Washington Avenue  
St. Louis, MO 63101  
[rjohnson@stolarlaw.com](mailto:rjohnson@stolarlaw.com)  
[llangeneckert@stolarlaw.com](mailto:llangeneckert@stolarlaw.com)

Michael A. Rump  
Senior Attorney  
Kansas City Power & Light Company  
1201 Walnut  
P.O. Box 418679  
Kansas City, MO 64141-9679  
[mike.rump@kcpl.com](mailto:mike.rump@kcpl.com)

Diana M. Vuylsteke  
Bryan Cave, LLP  
211 N. Broadway, Suite 3600  
St. Louis, MO 63102  
[dmvuylsteke@bryancave.com](mailto:dmvuylsteke@bryancave.com)

/s/James B. Lowery  
James B. Lowery