

April 23, 2001

VIA HAND DELIVERY

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' Motion to Reopen the Record and Motion to Implement Curtailment Tariff on an Interim Basis.**

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 / sh

James J. Cook
Managing Associate General Counsel

JJC/mlh
Enclosures

cc: Mr. Lewis Mills
Hearing Examiner

Parties on Attached Service List

FILED³

APR 23 2001

Missouri Public
Service Commission



BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

APR 23 2001

Missouri Public
Service Commission

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

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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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via U.S. First Class Mail on this 23rd day of April, 2001, on the following parties of record:

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