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March 12, 2004

HAND DELIVERED

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
Governor Office Building
200 Madison Street
Jefferson City, Missouri 65101

Re: Case No. EE-2004-0268

Dear Mr. Roberts:

Enclosed for filing are an original and eight (8) copies of River's Edge Properties'
Amended Application for Variance.

Thank you for your assistance in bringing this filing to the attention of the
Commission, and please call me if you have any questions.

Very truly yours,



Diana M. Vuylsteke
DMV:rms

Enclosures (9)
cc: All Parties

FILED²

MAR 12 2004

Missouri Public
Service Commission

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BEFORE THE PUBLIC COMMISSION
OF THE STATE OF MISSOURI

FILED²
MAR 12 2004

Missouri Public
Service Commission

In the Matter of the Application of)
Union Electric Company, doing business)
As AmerenUE, for a Variance from the)
Separate Metering Requirement of the)
Commission's Rule For the River's Edge)
Project located at 600 River's Edge Dr.,)
St. Charles, Missouri)

Case No. EE-2004-0268

AMENDED APPLICATION FOR VARIANCE OF RIVER'S EDGE PROPERTIES

Comes now River's Edge Properties, LLC ("River's Edge") and, pursuant to 4 CSR 240-20.050, files this Amended Application for Variance ("Amended Application"). In support of its Amended Application, River's Edge states as follows:

I. BACKGROUND AND PROCEDURAL HISTORY

1. River's Edge is a Missouri corporation and is presently constructing a senior community project located at 600 River's Edge Dr. in St. Charles, Missouri ("River's Edge Project"). When completed, the River's Edge Project will consist of 147 senior adult residential units.

2. On December 22, 2003, Union Electric Company, doing business as AmerenUE, filed an application for a variance from the individual metering requirements of 4 CSR 240-20.050 for the River's Edge Project ("Initial Application"). The Initial Application is incorporated herein by reference.

3. On January 29, 2004, the Electric Meter Variance Committee ("Committee") met regarding the Initial Application. On January 30, 2004, the Committee issued a recommendation for denial of the Initial Application.

4. On February 9, 2004, AmerenUE replied to the Committee's recommendation and contested the recommendation, but did not request a formal hearing.

5. On February 9, 2004, River's Edge filed its Application to Intervene, Motion for Reconsideration and Request for Hearing. River's Edge was granted intervention by order dated February 24, 2004.

6. On March 3, 2004, the Commission held a prehearing conference. On the record at the prehearing conference, Judge Roberts granted the request of River's Edge for reconsideration of the Electric Meter Variance Committee's recommendation denying the variance.

7. River's Edge is filing this Amended Application in order to present facts not presented in the Initial Application.

II. THE RIVER'S EDGE PROJECT

8. The residents of the River's Edge Project will have an average age of 85 years old. The majority of these residents have age-related impairments, including varying levels of dementia, which makes it difficult for them to take care of their own affairs, including payment of utility bills.

9. River's Edge provides a number of services to residents without separate charge. These services include: provision of electricity, water, natural gas, telephone, and cable televisions service¹; congregate meals; maid service; laundry service; transportation; trash service; full maintenance; 24-hour supervision and emergency call service; recreation and exercise programs; bath care; medication set-up and reminders; and meal and activity escorts.

10. The River's Edge Project is a not a licensed nursing homes or assisted living facility. However, it is designed as a senior community to provide assistance with Activities of Daily Living, also known in the industry as "ADLs", for senior adults. The residents of River's Edge are concerned about aging, declining health and diminished independence, and desire the additional services necessary for a safe and supportive living environment, but not the level of care provided at licensed nursing homes or assisted living facilities. The River's Edge Project is designed with central dining facilities, safety rails in restrooms and corridors, alarm units, and common areas for recreation that distinguish the design as a senior community development rather than an apartment development.

11. The River's Edge Project is designed to maximize energy conservation, with insulation and insulated windows to reduce heating and cooling costs. Additionally, the River's Edge Project

¹ This is contrary to paragraph 4 of the Initial Application; which mistakenly stated that cable television and telephone service were not provided.

encases the thermostat for each senior living apartment with plastic, removing the resident's ability to individually control the thermostat without the assistance of maintenance.

III. LEGAL FACTORS SUPPORTING THE AMENDED APPLICATION

12. Pursuant to 4 CSR 240-20.050, a variance may be granted for good cause shown.

13. The purpose of Rule 4 CSR 240-20.050 stated by the Commission in the Code of State

Regulations is as follows:

This rule prescribes individual metering for new multiple occupancy buildings and new mobile home parks for all electric corporations under the jurisdiction of the Public Service Commission. This rule is aimed at compliance with Sections 113(b)(1) and 115 (d) of Title I of the Public Utility Regulatory Policies Act of 1978 (PURPA), PL 95-617, 16 USC 2601.

Part of PURPA is codified at 16 U.S.C. section 2601. That section provides, in part:

The Congress finds that the protection of the public health, safety and welfare, and preservation of national security, and the proper exercise of congressional authority under the Constitution to regulate interstate commerce require –

- (1) a program providing for increased conservation of electric energy, increased efficiency in the use of facilities and resources by electric utilities, and equitable retail rates for electric consumers.

Other pertinent subsections of PURPA are 2623 (b)(1) and 2625(d). Subsection 2623(b)(1) provides:

(1) Master Metering

To the extent determined appropriate under section 2525(d) of this title, master metering of electric service in the case of new building shall be prohibited or restricted to the extent necessary to carry out the purposes of this chapter.

Subsection 2625(d) provides:

(d) Master metering

Separate metering shall be determined appropriate for any new building for purposes of section 623(b)(1) of this title if –

- (1) There is more than one unit in such building;
- (2) the occupant of each unit has control over a portion of the electric energy used in such unit; and
- (3) with respect to such portion of electric energy used in such unit, the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters in such building.

14. Good cause exists to grant the variance sought by this Amended Application. First, the residents of River's Edge do not control the electric energy used in each unit, and, accordingly master metering is appropriate pursuant to PURPA Subsection 2625(d)(2). Second, under the balancing test of

PURPA Subsection 2625 (d)(3), the long-run benefits of master metering to the residents of River's Edge exceed the cost of separate metering. The social policy benefit of providing master metering to the senior residents in these cases is substantial. Most of the River's Edge residents are over 80 years old, have mental or physical impairments, and need assistance managing their affairs. Master metering allows the residents to avoid the burdens associated with managing their electric bills, and to be free of the considerable risk that they will be disconnected for forgetting to pay electric bills on time. In contrast, the conservation benefit of not granting the variance and requiring single-metering is minimal or nonexistent. River's Edge has a strong incentive as the responsible parties for utility bills to take conservation measures, and has in fact taken such measures, including insulation of the facilities. Moreover, as pointed out in paragraph 5 of the Initial Application, River's Edge must pay the residents' utility bills regardless of whether separate metering is required. River's Edge cannot lawfully "rebill" the residents based on their respective use of electricity; such rebilling would violate AmerenUE's Tariff Sheet No. 175.

WHEREFORE, for the foregoing reasons, River's Edge respectfully requests a variance from the individual metering requirement of 4 CSR 240-20.050 to allow master metering for the River's Edge Project.

Respectfully submitted,

BRYAN CAVE, LLP

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Attorney for River's Edge Properties LLC

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed to the parties on the Commission's service list this 12th day of March, 2004.

Diana Vuyksteke