

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the )  
Application of Gary Roof for )  
Change of Electric Supplier )

**File No. EO-2010-0166**

## **Notice of Contested Case and Order Directing Filings**

Issue Date: December 1, 2009

Effective Date: December 1, 2009

The Missouri Public Service Commission is giving notice that a contested case has begun and is ordering parties to file responsive pleadings as follows.

### a. Contested Case

On November 30, 2009, Gary Roof filed an application for a change of electric supplier ("application") from Platte Clay Electric Co-Operative to AmerenUE.

The statutes provide that a rural electric co-operative has a right to continue serving its members.<sup>1</sup> The due process of law protects such property rights by requiring the opportunity for a hearing in a meaningful manner and time.<sup>2</sup> The time and manner of such hearing is meaningful, the Commission concludes, only if it occurs before the Commission decides the application.<sup>3</sup>

The pre-decision hearing requirement makes this action a "contested case."<sup>4</sup> A contested case is a formal hearing procedure, but it allows for waiver of procedural formalities<sup>5</sup> and a decision without a hearing,<sup>6</sup> including by stipulation and agreement.<sup>7</sup> The Commission's discovery regulations are at 4 CSR 240-2.090.<sup>8</sup>

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<sup>1</sup> Section 394.315.2, RSMo 2000.

<sup>2</sup> *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976).

<sup>3</sup> *Jamison v. Dept. of Soc. Servs.*, 218 S.W.3d 399, 408-09 (Mo. banc 2007).

<sup>4</sup> Section 536.010(4), RSMo Supp. 2008.

<sup>5</sup> Sections 536.060(3) and 536.063(3), RSMo 2000.

### b. Notice

The Commission must provide notice of a contested case to all necessary parties.<sup>9</sup> Such parties include Platte Clay Electric Co-Operative and AmerenUE (“respondents”). Therefore, the Commission will order delivery of this notice and order, with a copy of the application, to respondents.

### c. Responsive Pleadings

The Commission will order respondents to file answers to the application. As to each allegation in the application, each respondent’s answer shall:

- admit, deny, or state that the respondent is without sufficient knowledge to admit or deny; and
- set forth any allegation and argument in support of such respondent’s position on the application.

The Commission will also order its staff to file a recommendation on the application.

### **THE COMMISSION ORDERS THAT:**

1. The Commission’s Data Center shall serve a copy of this notice and order, with a copy of the application, on Platte Clay Electric Co-Operative and AmerenUE by mail.

2. No later than January 4, 2010, Platte Clay Electric Co-Operative and AmerenUE shall each file an answer as directed in the body of this order.

3. No later than January 22, 2010, the Commission’s staff shall file a recommendation on the application.

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<sup>6</sup> Sections 536.060, RSMo 2000.

<sup>7</sup> 4 CSR 240-2.115.

<sup>8</sup> Section 536.067(2)(f), RSMo 2000.

<sup>9</sup> Section 536.067(1), RSMo 2000.

4. This order shall become effective immediately upon issuance.

**BY THE COMMISSION**

( S E A L )

A handwritten signature in black ink, appearing to read 'S. Reed', is positioned above the printed name of the Secretary.

Steven C. Reed  
Secretary

Jordan, Regulatory Law Judge,  
by delegation of authority pursuant  
to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 1<sup>st</sup> day of December, 2009.