

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Grand)
View Tower LLC for Approval of a)
Variance from 4 CSR 240-20.050(2).)

Case No. EE-2005-0486

ELECTRIC METER VARIANCE COMMITTEE RECOMMENDATION

COMES NOW the Electric Meter Variance Committee of the Missouri Public Service Commission (Committee) and for its recommendation states:

1. The Electric Meter Variance Committee of the Missouri Public Service Commission consists of two members of the Commission's utility division staff, a member of the Commission's General Counsel Office and, *ex officio*, Public Counsel. The Electric Meter Variance Committee met on Friday, July 8, 2005, regarding the application filed in this case.

2. In the attached Memorandum, which is labeled Appendix A, the Electric Meter Variance Committee recommends that, because the footings for the building in question were poured before June 1, 1981, the Missouri Public Service Commission issue an order that no variance from the separate metering requirement of 4 CSR 240-20.050 is required to master meter the residential living units of the multi-family residential apartment building in the existing building complex known as Council House located at 300 South Grand Boulevard, St. Louis, Missouri. In multiple prior cases when parties sought variances from the separate metering requirement of 4 CSR 240-20.050 for premises built before June 1, 1981, the Commission determined the rule did not apply. See *In the Matter of the Application of Kansas City Power &*

Light Company for a Variance from the Separate Meter Requirement, Case No. EE-2003-0199 (March 27, 2003 Order Granting Variance) and *In the Matter of the Application of Restoration St. Louis, Inc. a Missouri Corporation, and New Lindell Towers, LLC, a Missouri Limited Liability Company, for a Variance from 4 CSR 240-20.050*, Case No. EE-2003-0365 (May 1, 2003 Order Adding a Party and Granting Variance). Additionally, the Electric Meter Variance Committee raises the matter of the possible applicability subpart K of Union Electric Company's Tariff Schedule 5, 6th Revised Sheet No. 144 issued February 14, 2003, and made effective March 17, 2003, but is unable to make a recommendation regarding that tariff provision based on the information before it.

3. The Commission's Rule 4 CSR 240-20.050 provides:

Each residential and commercial unit in a multiple-occupancy building *construction of which has begun after June 1, 1981* shall have installed a separate electric meter for each residential or commercial unit.

Additionally, in 4 CSR 240-20.050(1)(D) the Commission has defined when construction begins for purposes of the rule as follows: "Construction begins when the footings are poured." Thus, because separate metering is not required for this building, no variance from the Commission's Rule 4 CSR 240-20.050 is necessary.

4. Although 4 CSR 240-20.050(1)(D) is not applicable to this building by the language of the rule, subpart K of Union Electric Company's Tariff Schedule 5, 6th Revised Sheet No. 144 issued February 14, 2003, and made effective March 17, 2003, provides that "premises" that are "remodeled or rehabilitated in any such manner that requires new, modified, enhanced or relocated electrical distribution supply facilities from [Union Electric] . . . shall be considered to have been constructed after June 1, 1981 for application of 4 CSR 240-20.050 of the Commission's metering requirements" As stated above, based on the information

before it, the Electric Meter Variance Committee is unable to determine the applicability of this tariff provision.

WHEREFORE, the Electric Meter Variance Committee of the Missouri Public Service Commission recommends that the Commission determine that separate metering for residential or commercial units at the building located at 4490 Forest Park, St. Louis, Missouri is not required by 4 CSR 240-20.050 and issue an order to that effect.

Respectfully submitted,

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General Counsel

/s/ Nathan Williams

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 15th day of July 2005.

/s/ Nathan Williams

MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EE-2005-0486, Union Electric Company d/b/a AmerenUE

FROM: Electric Meter Variance Committee

/s/ James Watkins by NW
James Watkins, Utility Division

/s/ Lewis R. Mills, Jr.
Lewis R. Mills, Jr., Office of the Public Counsel

/s/ Lena Mantle
Lena Mantle, Utility Division

/s/ Nathan Williams
Nathan Williams, Office of the General Counsel

SUBJECT: Recommendation for **Denial** of a Variance from Individual Electric Metering requirement for service to a multi-family residential apartment building owned by Grand View Tower LLC in the existing building complex known as Council House located at 300 South Grand Boulevard, St. Louis, Missouri.

DATE: July 14, 2005

On June 13, 2005 Grand View Tower LLC filed an application for a variance from the individual metering requirement of 4 CSR 240-20.050 for a multi-family residential apartment building owned by Grand View Tower LLC in the existing building complex known as Council House located at 300 South Grand Boulevard, St. Louis, Missouri.

4 CSR 240-20.050(2) states:

Each residential and commercial unit in a multiple-occupancy building **construction of which has begun after June 1, 1981** (emphasis added) shall have installed a separate electric meter for each residential or commercial unit.

4 CSR 240-20.050(1)(D) provides:

For the purposes of this rule—

(D) **Construction begins when the footings are poured**; (Emphasis added).

The Commission's rule is aimed at compliance with certain sections of the Public Utility Regulatory Policies Act of 1978. Part of that Act, 16 U.S.C. section 2625(d), provides:

Master metering

Separate metering shall be determined appropriate for any **new building** (emphasis added) for purposes of section 2623(b)(1) of this title if –

- (1) there is more than one unit in such building,
- (2) the occupant of each such 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.

Grand View Tower LLC states in its application that the building in question is “one of a related series of residential and commercial use buildings which were part of a unified complex constructed and owned by the Teamsters in midtown St. Louis known as Council House (the “Complex”)” and that this particular building “was constructed forty-two years ago as a retirement residence for trade union members.”

The Electric Meter Variance Committee met Friday, July 8, 2005 regarding the application. The Electric Meter Variance Committee is of the view that because the footings for the building that is the subject of this application were poured before June 1, 1981, no variance is required from the Commission's Separate Metering Rule—4 CSR 240-050. Therefore, the Electric Meter Variance Committee recommends that the Commission issue an order that no variance from that rule is required in this case.

While no request for relief from Union Electric Company's tariff has been made in the application, The Electric Meter Variance Committee is aware of Union Electric Company d/b/a AmerenUE's Tariff Schedule 5, 6th Revised Sheet No. 144 issued February 14, 2003 and made effective March 17, 2003 which in subpart K provides that “premises” that are “remodeled or rehabilitated in any such manner that requires new, modified, enhanced or relocated electrical distribution supply facilities from [Union Electric] . . . shall be considered to have been constructed after June 1, 1981 for application of 4 CSR 240-20.050 of the Commission's metering requirements”

In its application Grand View Tower LLC states:

The Complex as a whole, including the Property, was served by a common distribution center of HVAC (heating, ventilating and air conditioning) and electrical power for all buildings in the Complex. The Complex was served through a common "powerhouse" where electricity was distributed centrally as well as the heating and air conditioning and hot and cold water .

The powerhouse was constructed forty-two years ago with machinery and equipment which is now functionally obsolete and in some cases inoperable . It has not been updated since the original construction.

Based on the statements made in the application, the Electric Meter Variance Committee is unable to determine the applicability of Union Electric Company d/b/a AmerenUE's Tariff Schedule 5, 6th Revised Sheet No. 144. Members of the Electric Meter Variance Committee have raised the issue to the Grand View Tower LLC.