

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³
FEB 10 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 Brentmoor)
at Oaktree project located at 363)
Jungermann Road, St. Peters, Missouri.)

Case No. EE-2004-0267

REQUEST BY INTERVENOR FOR RECONSIDERATION,
GRANTING OF VARIANCE AND REQUEST FOR HEARING

COMES NOW St. Catherine Retirement Community, LLC and DeSmet Retirement Community, LLC, Owner and Intervenor, and respectfully presents and submits to the Missouri Public Service Commission, (the "*Commission*") its position with respect to the above referenced Application of Union Electric Company for a variance from the Separate Metering Requirements.

(1) The variance should be granted for the following reasons:

Separate metering for each dwelling unit of the Brentmoor Oak Tree Village is inappropriate. This senior adult residential community is operated to provide a full service living environment for its senior residents who must be 62 years old or older. The average age of a resident in the Brentmoor Oak Tree Village is 80 years old. The owner provides electricity, water, sewer, gas, telephone, internet access, and cable TV. The senior residents pay for their occupancy and for the included services provided by the Owner for the tenants through the Lease. With respect to cable and telephone, these services are provided by the Owner, and the resident pays for those services.

If there were separate meters, the Owner would continue to pay for all of the electricity provided to the dwelling units.

The cost to install meters is an important issue to the Owner, but the cost to install the meters is not the compelling issue in this situation. The nature of the use of the Property and the business of the Owner is much more relevant and deserves serious consideration by the Commission. Senior adult housing serves seniors who are moving from their homes or apartments to live in an environment which reduces the burdens of daily living and makes available facilities and services necessary to meet the needs of the senior residents.

Brentmoor Oak Tree Village is not a nursing home. The senior residents of the Brentmoor Oak Tree Village, average age 80 years old, are more able to perform the activities of daily living, than seniors who require the services of an assisted living or skilled nursing facility, however, the seniors who live in a senior adult community decide to live in such a community because of their very real concerns about aging, declining health and diminished independence and the additional services necessary to secure a safe, secure and supportive living environment.

The design of the community and each of the dwelling units, the central dining facilities, the safety rails in restrooms and along corridors, the help seeking alarm in each unit, the programs provided to the residents including exercise and health care maintenance all distinguish this senior adult community from an apartment development.

This facility is not the type of new multiple occupancy building contemplated by the Rule. The residents of a senior community certainly can turn on or off their lights and adjust the thermostat in this dwelling unit to lower or raise the temperature, but the electricity and the HVAC are provided by the Owner for the residents, and the residents are not and will not be charged for electricity or HVAC.

(2) The Electric Meter Variance Committee Recommendation against the granting of the variance is wrong in its statement of the facts, its findings and conclusions and its application of the law and regulations with respect to the facts in the following respects:

This Property is a senior adult community. It is not a standard multifamily apartment property. The senior adult community is designed, built and operated to be a community for senior adults. Seniors have a wide variety of special needs based upon age, health, independence and common interests. Since the average age of the residents is 80 years old, age, health and independence are the forces which make the availability of a senior adult community so important.

A senior adult community is not just a residence. It is made up of a large variety of special services provided to and for the seniors within the community. Food, transportation, cable TV, utilities, computer services, internet, e-mail, exercise, recreation, and on site care, laundry and housekeeping are just some of those services.

What characterizes a senior adult community are the design of the facility, the services and the programs provided to the senior residents to assure a safe, secure and

supportive environment to insure good quality of life at a time when, as a result of age and declining health, independence is compromised.

A senior adult community caters to the basic needs of its residents. Including utility services as part of occupancy in a senior adult community is very standard. To equate a senior community with apartments for general occupancy is to compare two very difficult types of housing.

Today, residential living for senior adults involves a continuum of care for aging seniors, from independent to assisted living, to nursing care, to skilled nursing. The mission of senior residential living is to provide a high quality of life experience to the seniors, to reduce and eliminate some of the burdens of independent living in a non senior home or apartment setting.

The Owner has found that other senior living communities in Missouri are master metered and have been granted variances by the Commission. It is inappropriate and not in the public interest to have senior retirement communities treated differently from one another without a material difference in the nature and character of their operation.

(3) Finally, the Owner concurs with the findings, analysis, conclusions and recommendations of Ameren UE as set forth in its Reply to Electric Meter Variance Committee's Recommendation.

WHEREFORE the Owner, respectfully requests the Commission to grant the Application for a Variance made by Union Electric Company, or request that the Electric Meter Variance Committee reconsider its recommendation in light of the information herein presented by the Owner or the granting of a hearing before the commission with respect to the Application for a Variance.

Respectfully Submitted,

SUELTHAUS & WALSH, P.C.

By: Stuart H. Zimbalist
Stuart H. Zimbalist Mo. Bar #19831

By: Richard G. Byrd
Richard G. Byrd Mo. Bar #33473
Attorneys for Owner (Intervenor)
7733 Forsyth Boulevard, 12th Floor
St. Louis, Missouri 63105
(314) 727-7676
(314) 727-7166 (Facsimile)

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronic mailed to all counsel of record this 6th day of February, 2004.

Stuart H. Zimbalist