

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of an Investigation of Union)
Electric Company d/b/a AmerenUE.) Case No. EO-2006-0430

DISSENTING OPINION OF COMMISSIONER CONNIE MURRAY

In its May 11th Order, the Commission voted to authorize Staff to begin a formal, docketed investigation of Union Electric Company, d/b/a AmerenUE, on allegations by industrial consumers that AmerenUE is over-earning. The Commission also authorized Staff to file a complaint against AmerenUE if, based on this investigation, it determines such action is appropriate. I dissent from the Commission's Order because I believe this is a costly, duplicative and unnecessary process when AmerenUE has noted to the Commission and its investors, that it will be filing a rate case on or about July 10, 2006, 60 days from the date of the Commission's Order.

Staff filed a report with the Commission on May 4, 2006, updating the Commission on the status of the existing informal investigation. Staff asserted that the results of the informal investigation were inconclusive as to whether AmerenUE's rates were excessive. Staff asserted that it would not feel comfortable filing any complaint until Staff had a reasonable expectation that the records and evidence would prove such over-earning was in fact occurring. Staff also noted that a formal investigation immediately would require significant Staff resources at the expense of other current formal cases and priority projects; that a formal investigation would still require Staff to file a complaint case to resolve any over-earning issues; and that there would still be significant delays because a formal investigation and/or a complaint case would have to

take a back seat to cases that have an operation-of-law date. Staff recommended that the Commission:

- Examine the reasonableness of AmerenUE's rates as a part of a general rate case filed by AmerenUE no later than July 10, 2006.
- If no AmerenUE rate case commitment, open a formal investigation to place this matter on the most reasonable timeline recognizing pending and expected cases.

Staff's recommendation makes sense when considering that AmerenUE has made numerous statements to the Commission and to its investors that it intends to file a rate case with the Commission by July 10, 2006. A formal rate case would provide Staff and any interested parties with ample opportunity to examine the very issues that are at the heart of this formal investigation. Moreover, a formal rate case has an operation-of-law date that would limit the length of the case to eleven months, allows for discovery and the sharing of highly confidential information, and includes all of the audit provisions that a formal investigation would entail.

The instigation of a formal investigation appeases only those industrial consumers that want access to AmerenUE records now as opposed to sixty days from now. That isn't sufficient reason to initiate this duplicative, costly, unnecessary process that will not accomplish anything beyond what the formal rate case will accomplish. Sixty days is not a material delay even if the allegations that AmerenUE is over-earning prove true in the end. Instead, this Commission, with political expediency in mind, is forcing unnecessary costs on either AmerenUE investors or ratepayers, and unnecessary burdens on the Commission staff.

Before this Commission takes steps that are almost certain to make investors nervous about a company's regulatory risk factor, we should be very certain that there is

adequate cause to do so. After four months of informal investigation, our staff has no conclusive evidence of over-earnings. This Commission should not, without cause, create the impression for Wall Street and others that AmerenUE is engaging in some activity that warrants a formal investigation. It is far more appropriate to conduct this investigation in the context of a formal rate case that AmerenUE has agreed would be filed in 60 days.

Respectfully submitted,


Connie Murray, Commissioner

Dated at Jefferson City, Missouri
on this 12th day of May, 2006.