

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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 and the Company's)
Tariff For the Remodeling of Kingsbury)
Terrace Apartments Located at 5655)
Kingsbury Avenue, St. Louis, Missouri.)

Case No. EE-2006-0124

STAFF RECOMMENDATION TO GRANT VARIANCES

COMES NOW the Staff of the Public Service Commission of Missouri (Staff) and for its recommendation states:

1. On September 21, 2005 Union Electric Company d/b/a AmerenUE filed an application for variances from both Commission Rule 4 CSR 240-20.050(2) and Section II.K. of Union Electric Company's tariff Schedule 5—Schedule of Rates for Electric Service to allow master metering of electric service to residential units in a building undergoing renovation at 5655 Kingsbury Avenue, St. Louis, Missouri—Kingsbury Terrace Apartments.

2. The Staff recommends that the Commission, pursuant to Section II.K. and Section V. L. of Union Electric Company's tariff Schedule 5—Schedule of Rates for Electric Service, grant variances to allow master metering of electric service to the residential units at the Kingsbury Terrace Apartments and, although not requested, permit rent for each unit to include an unidentifiable amount for electric utility service to that unit, without such service being disaggregated and billed to the tenants of each unit by Union Electric Company; and find that Commission Rule 4 CSR 240-20.050 does not apply.

3. According to the application, the St. Louis Housing Authority is renovating the building which was originally constructed in 1971. Commission Rule 4 CSR 240-20.050, in part, 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.

In subpart 4 CSR 240-20.050(1)(D) of that rule, the Commission has defined when construction begins for purposes of the rule as follows: “Construction begins when the footings are poured.” Since the building was constructed in 1971, the Commission’s Rule does not require separate metering for this building, and no variance from Commission Rule 4 CSR 240-20.050 is necessary.

4. When presented with similar asseverations in the past that a building undergoing renovation was constructed before June 1, 1981, the Commission has found Rule 4 CSR 240-20.050 inapplicable. *See In the Matter of the Application of Union Electric Company, doing business as AmerenUE, for a Variance for Parkview Apartments*, Case No. EE-2004-0092 (September 23, 2003 Order Granting Variance and Directing Filing); *In the Matter of the Application of Union Electric Company, doing business as AmerenUE, for a Variance for West Pines Apartments*, Case No. EE-2004-0069 (September 23, 2003 Order Granting Variance and Directing Filing); *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* (May 1, 2003 Order Adding a Party and Granting Variance).

5. Subpart II.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 in full:

GENERAL RULES AND REGULATIONS
II. CHARACTERISTICS OF SERVICE SUPPLIED

K. Non-Standard Service

Changes in business practices and regulatory and legal requirements will, from time to time, result in the Company serving or billing a limited number of customers in a manner that is currently considered a non-standard form of service. Such non-standard service includes, but is not limited to, voltages, frequencies, metering equipment, metering locations, electrical distribution system supply facilities and configurations, and master and cumulated meter billing situations that are prohibited by current Commission rules and company tariffs for application to new customers. The continued provision of such non-standard service and billing is limited to the premises presently served by such facilities. These facilities may only be relocated, expanded or enhanced for Company's engineering reasons.

In order to minimize and phase out the number of non-standard service installations and billing applications on its system, company will, unless otherwise provided for above, discontinue providing any such non-standard service to a premises when a) the premises is remodeled or rehabilitated in any such manner that requires new, modified, enhanced or relocated electrical distribution supply facilities from the Company, or b) the premises become an inactive account for a consecutive period of six (6) months or more. Any premises meeting the conditions of (a), or (b) herein 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 and related Sections V.L. Rent Inclusion and V.M. Resale of Service, which are a part of the Billing Practices Section of Company's General Rules and Regulations.

6. Sections V.L. and V.M. (Subparts V.L. and V.M.) of Union Electric Company's tariff referred to above in Subpart II.K. provide in full:

GENERAL RULES AND REGULATIONS
V. BILLING PRACTICES

L. Rent Inclusion

The furnishing of electric service by a customer to a third party as an unidentifiable rental component, without such service being segregated and billed

to the third party by Company, is generally prohibited by the Commission's rules. Separate metering shall be required for each unit in multiple occupancy buildings constructed after June 1, 1981, except for the following electrical usage:

1. For transient multiple occupancy buildings and transient mobile home parks, e .g., hotel, motels, dormitories, rooming houses, hospitals, nursing homes, fraternities, sororities, campgrounds, and mobile home parks which set aside, on a permanent basis, at least eighty percent (80%) of their mobile home pads or comparable space for use by travel trailers;
2. Where commercial unit space is subject to alteration with change in tenants as evidenced by temporary versus permanent type of wall construction separating the commercial unit space; e .g., space at a trade fair.
3. For commercial adjacent buildings;
4. For that portion of electricity used in central space heating, central hot water heating, central ventilating, and central air conditioning systems, or
5. For buildings or mobile home parks where alternative renewable energy resources are utilized in connection with central space heating, central hot water heating, central ventilating, and central air conditioning systems.
6. For all portions of electricity in commercial units in buildings with central space heating, ventilating and air conditioning systems.

** Any person or entity affected by the provisions of this Section V. L. Rent Inclusion may file an application with the Commission seeking a variance from all or parts of such provisions for good cause shown, pursuant to the Commission's rules applicable thereto.

* Nursing homes, as referenced in (1.) above, shall include all facilities licensed by the State of Missouri Department of Social Services Division of Aging. Central space heating, water heating and air conditioning systems referred to in (4.) above shall include those systems employing individual heating/cooling units interconnected with centralized heating/cooling sources by means of a central piping system containing water or other fluids suitable for such purposes.

* Indicates Change **Indicates Addition

M. Resale of Service

The furnishing of metered electric service by a customer of Company to a third party for a specific identifiable charge based upon such metered consumption is prohibited except where such practice originated prior to July 24, 1958. Where such practice has continued since July 24, 1958, the charge for

electric service from customer to a third party shall not exceed the charge which would result from the application of Company's appropriate rate, contained herein, for comparable electric service. For such exceptions, the practice of resale shall be discontinued when such premises are remodeled, rebuilt or replaced.

7. While less than a model of clarity, the Staff believes the last sentence of Subpart II.K., which follows, incorporates the procedures of Commission Rule 4 CSR 240-20.050 into Union Electric's tariff and, thus, the Commission has authority to grant variances in circumstances where existing structures that are master metered are renovated for multiple residential housing units:

Any premises meeting the conditions of (a), or (b) herein 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 and related Sections V.L. Rent Inclusion and V.M. Resale of Service, which are a part of the Billing Practices Section of Company's General Rules and Regulations.

Further, Subpart V.L., addressing the inclusion in rent of an unidentifiable amount of use of electric utility service, contains the following provision which permits a variance to allow rent for each unit to include an unidentifiable amount for electric utility service to that unit:

Any person or entity affected by the provisions of this Section V.L. Rent Inclusion may file an application with the Commission seeking a variance from all or parts of such provisions for good cause shown, pursuant to the Commission's rules applicable thereto.

8. As stated above, Commission Rule 4 CSR 240-20.050(2) 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.

However, Subpart 4 CSR 240-20.050(5), in part, provides:

Any person or entity affected by this rule [4 CSR 240-20.050] may file an application with the commission seeking a variance from all or parts of this rule (4 CSR 240-20.050) and for good cause shown, variances may be granted

9. The Commission's rule is aimed at compliance with certain sections of the Public Utility Regulatory Policies Act of 1978 (PURPA) codified in Chapter 16 of the United States Code (U.S.C.). That Chapter includes at 16 U.S.C. § 2625(d) the following language:

Master metering

Separate metering shall be determined appropriate for any new building 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.

10. In its application Union Electric Company relates that its customer that is rehabilitating the building, an apartment building, at 5565 Kingsbury Avenue, St. Louis, Missouri is the St. Louis Housing Authority. In the housing authority's letter attached to Union Electric Company's application, the housing authority states that it is a municipal corporation that receives the majority of its funding from the U.S. Department of Housing and Urban Development. It also states the apartments were originally constructed in 1971 as conventional low-income housing for elderly residents. It states that it is converting 87 no-bedroom efficiency units and 60 one-bedroom units to 110 one-bedroom efficiency units and 10 two-bedroom units. It states that all major plumbing, mechanical and electrical systems are being replaced. It further states:

The original mechanical system consisted of a gas-fired hot water, hi-rise loop system with gas fired boiler domestic water system. The remodeling changes this configuration to individual electric thru wall packaged thermal heating/ac units in each apartment and a high efficiency split system forced air hot water boiler system to accommodate all ground floor non-dwelling spaces. Fire safety systems including sprinkler systems and fire alarm systems are replaced to meet current

code requirements. All interior floor finishes, bathroom fixtures, cabinets, lighting fixtures are replaced. The original electrical system was master metered and due to interior space constraints as well as significant cost is intended to remain master metered, however, all building electrical distribution systems are to be replaced including building switchgear.

11. Union Electric Company, in paragraph 5 on page 2 of its application, states:

The customer has requested that one meter be installed to serve the building and as a result, if this variance request is approved, the customer will be responsible for the payment of the bills for electric service. Absent approval of the variance request, individual metering for each apartment and a "house" meter for electricity provided for common use would be required. Such metering would only increase initial construction costs and creates credit and payment concerns with the very low-income occupants of the facility.

12. Union Electric Company, in paragraph 7 on page 3 of its application, states:

AmerenUE estimates that individually metering each unit versus master metering would result in additional expenditures of approximately \$10,000. The customer estimates savings of approximately \$30,000 if the variance is approved.

13. In its letter attached to Union Electric Company's application, the St. Louis Housing Authority additionally states the following:

5. How will electric service costs be included in the rent?

Public Housing Residents pay 30% of their incomes for rent and utilities. HUD provides the St. Louis Housing Authority a subsidy for utility costs. The SLHA will subsequently pay utility bills.

6. What service is presently provided—separate metering?

The building was originally master metered and current design remains master metered.

7. Is there exclusivity in to whom the premises will be let?

The housing is exclusively for qualifying low to moderate income persons, both elderly and younger disabled (physically or mentally challenged) tenants.

8. How is the housing being subsidized—federal program, etc. Is there any redevelopment taking place where the building is located, i.e.,

are there any public policy reasons related to rehabilitating the neighborhood that are in play?

Kingsbury Terrace Apartments is a conventional Elderly Public Housing Development. All rents, utilities, management, and operations costs are subsidized thru long term Annual Contributions Contracts between SLHA and the U.S. Department of Housing and Urban Development.

Although development is occurring in the general area of Kingsbury Terrace Apartments the SLHA is not aware, nor have city officials indicated, that any overall neighborhood development strategy is in effect that impacts rehabilitation of this building.

* * * *

10. What is the basis for HUD subsidy, i.e., why is the subsidy relevant to the application?

Low income citizens who qualify for housing in this facility cannot normally meet the utility standards to qualify for credit. Their income status and their credit history do not normally meet the qualifications and they are determined to be at risk to the utility. This also relieves AmerenUE of the burden of turning power on and off as the apartments are vacated and rented. Additionally, payments for utility usage are consistent and billing will be substantially simplified.

14. Based on the foregoing information included in the application, it is the Staff's opinion that with respect to the portion of electric energy used by the residents of each residential unit of the project, the long-run benefits to the electric consumers of separate metering do not exceed the costs of purchasing and installing separate meters for each residential unit.

15. Further, although variance from subpart V.L. of Union Electric Company Tariff Schedule 5, 3rd Revised Sheet No. 174 issued July 21, 1995 and made effective August 26, 1995 was not requested, it is the Staff's opinion that the information in the application shows good cause to permit rent paid to the St. Louis Housing Authority for each residential unit at 5565 Kingsbury Avenue, St. Louis, Missouri to include an unidentifiable amount for electric utility

service to that unit, without such service being disaggregated and billed to the tenants of those units by Union Electric Company.

16. Based on a review of Commission records, Union Electric Company has no outstanding assessments and is current in its filing of annual reports.

17. Listing variances from subpart II.K. of Union Electric Company's Tariff Schedule 5, 6th Revised Sheet No. 144 and subpart V.L. of Union Electric Company Tariff Schedule 5, 3rd Revised Sheet No. 174 granted by the Commission would provide readily accessible public notice of those variances and facilitate tracking those variances.

WHEREFORE, the Staff of the Missouri Public Service Commission recommends that the Commission (1) determine that separate metering for residential or commercial units at the building located at 5565 Kingsbury Avenue, St. Louis, Missouri is not required by 4 CSR 240-20.050; (2) determine that a variance to subpart II.K. of Union Electric Company's Tariff Schedule 5, 6th Revised Sheet No. 144 issued February 14, 2003, and made effective March 17, 2003, should be granted for the premise located at 5565 Kingsbury Avenue, St. Louis, Missouri to permit master metering; (3) determine that a variance to subpart V.L. of Union Electric Company Tariff Schedule 5, 3rd Revised Sheet No. 174 issued July 21, 1995 and made effective August 26, 1995 should be granted and, therefore, grant in part and deny in part the Application for Variance made by Union Electric Company d/b/a AmerenUE in accordance with such determinations; (4) authorize Union Electric Company to master meter the premises located at 5565 Kingsbury Avenue, St. Louis, Missouri, as requested by the St. Louis Housing Authority; (5) permit rent paid to the St. Louis Housing Authority for each residential unit at 5565 Kingsbury Avenue, St. Louis, Missouri to include an unidentifiable amount for electric utility service to that unit, without such service being disaggregated and billed to the tenants of those

units by Union Electric Company; and (6) direct Union Electric Company to file tariff sheet(s) that list all variances from its Tariff Schedule 5, 6th Revised Sheet No. 144 and 3rd Revised Sheet No. 174 that the Commission has granted.

Respectfully submitted,

DANA K. JOYCE
General Counsel

/s/ Nathan Williams

Nathan Williams
Senior Counsel
Missouri Bar No. 35512

Attorney for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102
(573) 751-8702 (Telephone)
(573) 751-9285 (Fax)
nathanwilliams@psc.state.mo.us (e-mail)

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 26th day of October 2005.

/s/ Nathan Williams