

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

In the Matter of Union Electric Company d/b/a            )  
AmerenUE’s Tariffs to Increase its Annual            ) Case No. ER-2010-0036  
Revenues for Electric Service.                            )

**AMERENUE’S REQUEST FOR CLARIFICATION RESPECTING  
APPLICATION OF THE COMMISSION’S STATUTES AND  
STANDARD OF CONDUCT RULES**

COMES NOW Union Electric Company d/b/a AmerenUE (Company or AmerenUE), and hereby requests clarification of the application of the statutes governing Commission proceedings, and the Commission’s Standard of Conduct Rule (4 CSR 240-4.020), to activities of the type discussed herein. In this regard, AmerenUE states as follows:

1. On December 10, 2009, news outlets including the *St. Louis Business Journal* and the *St. Louis Post-Dispatch* reported that parties to the Company’s above-captioned pending general rate case had launched a public relations campaign against the requested rate increase sought in this case. (See Exhibits A and B, attached hereto and incorporated herein by this reference). Specifically, the news reports state that the following parties are members of a group calling itself the “Fair Electricity Rate Action Fund” (FERAF). The rate case parties these news outlets report as members of FERAF are Noranda Aluminum, Inc., Monsanto,<sup>1</sup> Anheuser Busch InBev,<sup>2</sup> AARP, and the Consumers Council of Missouri.

2. FERAF maintains a website ([www.fairelectricityrates.com](http://www.fairelectricityrates.com)). The FERAF website contains links to the above-cited *St. Louis Business Journal* and *St. Louis Post-Dispatch*

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<sup>1</sup> Monsanto has indicated to the Company that it is not directly participating in a public relations campaign in this rate case.

<sup>2</sup> Noranda Aluminum, Inc., Monsanto, and Anheuser-Busch InBev are members of the Missouri Industrial Energy Consumers (MIEC), an unincorporated association granted intervention in this rate case. An unincorporated association has no separate legal existence or status apart from its members, meaning that its members are themselves parties to the rate case. *State ex rel. Automobile Club Inter-Insur. Exchange v. Gaertner*, 636 S.W.2d 68, 70 (Mo. banc 1982).

articles. The link on the FERAf website to the *St. Louis Business Journal* article reads “Businesses launch campaign against Ameren rate increase” and the link to the *St. Louis Post-Dispatch* article reads “Ameren faces PR opposition in attempt to hike electric rates.” A copy of the Media page from the FERAf website is attached hereto and incorporated herein by this reference as Exhibit C.

3. FERAf’s website identifies by name at least one additional rate case party (the Missouri Retailers Association) and also identifies FERAf as “a group of employers and consumer advocates, such as Missouri Industrial Energy Consumers, Noranda Aluminum, and the Missouri Retailers Association.” See copies of two additional FERAf website pages attached hereto and incorporated herein by this reference as Exhibits D and E.

4. On September 2, 2009, the Commission issued its *Notice Regarding Conduct During Proceedings* by which it reminded the parties of the existence of its rule codified at 4 CSR 240-4.020. Among the provisions of that rule are subsection (4), which provides as follows:

(4) it is improper for any person interested in a case before the commission to attempt to sway the judgment of the commission by undertaking, directly or indirectly, outside the hearing process to bring pressure or influence to bear upon the commission, its staff or the presiding officer.<sup>3</sup>

5. Neither the Commission nor the courts have provided meaningful guidance respecting the application of subsection (4). Consequently, the meaning and effect of subsection (4) as it may or may not apply to the public relations activities of FERAf and its members, including those that are parties to this case, or to other parties to this case including AmerenUE,

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<sup>3</sup> The Commission has issued similar notices or orders in prior cases. *See, e.g.,* Order, In the Matter of Southwestern Bell Tele. Co., 25 Mo.P.S.C. (N.S.) 345, 1982 WL 190849 (Sept. 20, 1982), ordering “[a]ll counsel and parties to this proceeding to review 4 CSR 240-4.020 and comply strictly with its terms;” and ordering all counsel to “immediately report to the Commission any possible violations of this or other Commission rule, by any party, including the party they represent.”

is unclear. Given that lack of clarity, and the potential impact of such activities on this case, AmerenUE respectfully suggests that it would serve the public interest for the Commission to promptly provide guidance to the parties respecting the application of its rules. More specifically, AmerenUE requests that the Commission provide specific guidance on whether and to what extent the following activities (or similar activities) are permissible under the statutes and rules governing Commission proceedings, including subsection (4):

- a. May a rate case party or an association of rate case parties (or their agents, representatives, consultants, or contractors) engage (directly or indirectly) in a public relations or advertising campaign designed to address matters at issue or that are reasonably expected to be at issue in a pending rate case or form or encourage the formation of a group (whether formal or informal, including a not-for-profit corporation or other juristic entity) that engages (directly or indirectly) in such a public relations or advertising campaign?
- b. May a rate case party or association of rate case parties (or their agents, representatives, consultants, or contractors) fund (directly or indirectly) such a group that engages (directly or indirectly) in a public relations or advertising designed to address matters at issue or that are reasonably expected to be at issue in a pending rate case?
- c. May such a group formed or funded (directly or indirectly) by a party or association of rate case parties (or their agents, representatives, consultants, or contractors), or a party or association of parties, engage in a public relations or advertising campaign (such as by use of personal or automated phone calls, e-mails, print mailings, and television or radio advertising) designed to address matters at issue or that are reasonably expected to be at issue in a pending rate case?

Given the lack of prior guidance, AmerenUE is not in a position to express a view regarding if and how the statutes and rules governing Commission proceedings may apply to these kinds of activities, which is why AmerenUE believes Commission guidance would be helpful for all parties.

WHEREFORE, the Company hereby requests clarification of the Commission's application of the statutes and rules governing proceedings before the Commission respecting the kinds of activities described herein.

Dated: December 18, 2009.

Respectfully submitted:  
SMITH LEWIS, LLP

UNION ELECTRIC COMPANY,  
d/b/a AmerenUE

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via e-mail, on the following parties on the 18th day of December, 2009:

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/s/ James B. Lowery  
James B. Lowery

St. Louis Business Journal - December 10, 2009  
[/stlouis/stories/2009/12/07/daily49.html](http://stlouis/stories/2009/12/07/daily49.html)

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## St. Louis Business Journal

Thursday, December 10, 2009 | Modified: Monday, December 14, 2009

### Businesses launch campaign against Ameren rate increase

St. Louis Business Journal - by Kelsey Volkmann

Some of Missouri's biggest employers and consumer groups launched a public relations campaign Thursday against **AmerenUE's proposed 18 percent rate increase.**

Members of the **Fair Electricity Rate Action Fund** (FERAF) include AmerenUE's biggest electricity customer, **Noranda Aluminum Inc.**

The **Missouri Public Service Commission** (PSC), which regulates utilities, plans to make a final decision about the proposed rate hike by June 2010.

"We respect the PSC and its process and want to make sure as many Missourians as possible know about Ameren's requested 18 percent rate hike," said Bob Quinn, executive director of the **Missouri Association for Social Welfare**, a FERAF member. "In order to ensure that, we'll be communicating with Missourians directly about the request before the PSC."

Other members of the group include **AARP**, the **Missouri Rice Research and Merchandising Council** and the **Consumer Council of Missouri.**

The proposed rate hike would increase the average household's bill by \$15 a month, or \$180 a year.

AmerenUE has said that half of the proposed **\$402 million rate increase** will go toward covering higher fuel costs and lower revenues. The other half is needed for system-wide reliability improvements, the utility said.

The company also has requested that regulators approve a temporary \$37.3 million rate increase.

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EXHIBIT A



[Print] [Close]

12.10.2009 10:02 am

Ameren faces PR opposition in attempt to hike electric rates

By: Tony Messenger

St. Louis Post-Dispatch

JEFFERSON CITY — Missouri's biggest companies have a message for Ameren: We're back.

The Fair Electricity Rate Action Fund, a cobbling of big utility users that include Doe Run, Noranda, and other, pro-consumer groups (such as AARP and Missouri Industrial Energy Consumers), announced today a public relations blitz opposing Ameren's 18 percent rate hike increase.

The decision on the increase is ultimately in the hands of the Public Service Commission, but as it did in its battle last year against Ameren's plans for a nuclear plant, FERAF plans to take its fight directly to citizens, which likely means another round of competing television ads in the St. Louis market over the future of utility costs.

Because the group is positioning itself as educating citizens on an issue, as compared to opposing specific legislation, it will not have to follow Missouri Ethics Commission laws regarding transparency on its funding sources that apply to lobbying.

But the timing of its announcement shortly before the legislative session — and the fact that consultants connected to FERAF have already been calling lawmakers for support on their issue — likely indicates that Ameren and its opponents will also be warring over utility issues come January as well.

"As FERAF members, we respect the PSC and its process and want to make sure as many Missourians as possible know about Ameren's requested 18 percent rate hike," said Bob Quinn, executive director of the Missouri Association for Social Welfare, a FERAF member.

On top of its planned rate hike, Ameren recently applied for what it is calling a short-term emergency rate hike before the PSC, arguing that it is not making the full earnings allowed by the PSC.

UPDATE: Monsanto, which is a member of MIEC, has not decided yet whether to support the FERAF PR campaign concerning Ameren's rate hike.

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Article printed from Political Fix: <http://www.stltoday.com/blogzone/political-fix>

URL to article: <http://www.stltoday.com/blogzone/political-fix/political-fix/2009/12/ameren-faces-pr-opposition-in-attempt-to-hike-electric-rates/>

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EXHIBIT B





Help Us Keep Your Energy Rates Down

Welcome

Ameren Customers Face 18% Rate Hike

About Us

Our Mission

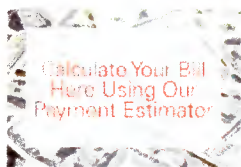
Join Us

Get the Facts

Media

Contact Your Rep

Get Involved



**Media**

Check here for press releases and important news stories. For press inquiries, please contact Chuck Poplstein at 314-807-4364.

12/10/2009

[Read Press Release: FERAf Announces Public Relations Campaign In Connection with Ameren Rate Hike Request](#)

12/10/2009

[Ameren faces PR opposition in attempt to hike electric rates](#)

12/10/2009

[Businesses launch campaign against Ameren rate increase](#)

12/10/2009

[Ameren Rate Hike Battle, Take Two](#)

12/09/2009

[St. Louis Post Dispatch: Ameren Gives Huge Executive Bonuses, Profits Up, but they still want more of your your money](#)

12/01/2009

[Missouri PSC Sets Local Public Hearing Schedule in AmerenUE Electric Rate Case](#)

05/04/2009

[Read Press Release: FERAf Announces Support for the Missouri Small Business and Residential Energy Efficiency Act](#)

04/23/2009

[Read Press Release: Statement from FERAf Spokesman Gregg Keller Regarding Ameren Announcement](#)

04/13/2009

[Read Press Release: Human Rights Office of the Catholic Diocese of Kansas City - St. Joseph Joins FERAf Coalition](#)

04/08/2009

[Read Press Release: Missouri Rice Research and Merchandising Council Joins FEREf Coalition](#)

04/07/2009

[Read Press Release: Missouri Association for Social Welfare Joins FERAf Coalition](#)

04/02/2009

[Read Press Release: Desperate to Pass Rate-Hike Legislation, Ameren Launches Misleading Ad Campaign](#)

04/01/2009

[Read Press Release: Fair Electricity Rate Action Fund \(FERAF\) Thanks Senators Who Stood Up to Ameren Rate Hike Plan](#)

**Get Involved**

**Missouri Public Service Commission**

The Public Service Commission (PSC) is in place to protect citizens from unnecessary or out of check energy rate hikes. The PSC welcomes your input on the upcoming Ameren rate hike hearing.

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EXHIBIT C

**03/31/2009**

[Read Press Release: Fair Electricity Rate Action Fund \(FERAF\) Vows to Fight Ameren Rate Hike Bill On Senate Floor](#)

**03/30/2009**

[Read Press Release: Fair Electricity Rate Action Fund \(FERAF\) Releases Poll Numbers Showing Missourians Opposed to Ameren Rate Hike Plan 82-14%](#)

**03/28/2009**

[Read Press Release: Fair Electricity Rate Action Fund Victorious Against Ameren Lawsuit in Federal Court](#)

**03/26/2009**

[Watch Television Ad: "Say NO to Ameren Raising Your Rates"](#)

**03/26/2009**

[Read Press Release: Fair Electricity Rate Action Fund Launches Campaign Against Ameren Plan to Raise Rates by As Much As 40%](#)



Welcome

**Ameren Customers Face 18% Rate Hike**

About Us

PRESS RELEASE  
March 26, 2009

For Immediate Release  
Contact: Gregg Keller  
314-258-3137

Our Mission

**FAIR ELECTRICITY RATE ACTION FUND LAUNCHES CAMPAIGN AGAINST AMEREN PLAN TO RAISE RATES BY AS MUCH AS 40%**

Join Us

**Airs Television Ad Urging Missourians to Tell Senators to Vote NO on AMEREN Rate Hike Plan**

Get the Facts

**St. Louis, Mo.** - A coalition of employers and consumers have formed the Fair Electricity Rate Action Fund (FERAF) and today launched a campaign to oppose AMEREN's plan to repeal important consumer protections and raise rates on Missouri electricity consumers by as much as 40%. AMEREN claims it must repeal important consumer protections and raise rates in order to build a second nuclear power plant in Callaway County, estimated to cost \$7-9 billion. But AMEREN has yet to commit to building the plant, and construction is up to five years away.

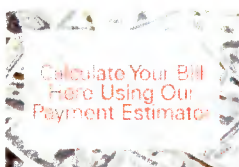
Media

FERAF began airing television ads in several markets urging Missourians to contact their legislators and urge them to oppose AMEREN's rate hike plan. Watch the ad here:  
[www.fairelectricityrates.com](http://www.fairelectricityrates.com).

Contact Your Rep

"It's wrong to make Missouri families pay as much as 40% more in these tough economic times. And higher utility rates on employers could cost Missouri jobs. This is a bad policy at the worst possible time," said Gregg Keller, a spokesman for the group.

Get Involved



FERAF is a group of employers and consumer advocates, such as Missouri Industrial Energy Consumers, Noranda Aluminum, and the Missouri Retailers Association.

"Twenty-five years ago, Missourians went to the polls and voted overwhelmingly for strong consumer protections against arbitrary and preemptive rate hikes. Using the excuse of the high cost of building a new nuclear power plant, AMEREN is seeking to throw out those protections so that they can raise rates by as much as 40%. Missouri's seniors living on fixed incomes will be particularly hard hit by these rate increases," said Keller.

Ameren wants to repeal key consumer protections against rate hikes now, but Ameren has said that it may not even build the plant. Construction of a second nuclear power plant would not begin for five years. FERAF knows that in these tough economic times, everyone must be focused on creating jobs. But repealing important consumer protections today and raising utility rates will actually cost Missouri jobs.

"Because AMEREN won't even decide if it wants to build the plant for up to five years, Ameren can't guarantee that a single new job will be created. The only guarantee Ameren can offer is higher

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**Missouri Public Service Commission**  
The Public Service Commission (PSC) is in place to protect citizens from unnecessary or out of check energy rate hikes. The PSC welcomes your input on the upcoming Ameren rate hike hearing. [START HERE](#)

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EXHIBIT D

utility rates for Missouri families and employers. Missouri employers already pay more than many of their competitors in other states. Increasing rates by another 40% on Missouri employers will actually cost Missouri jobs. For example, Noranda may have to close its operations and lay off nearly 1,000 employees," said Keller.

FERAF seeks a compromise that will allow progress to be made towards the construction of a second nuclear power plant, while also ensuring that Missouri's families and employers are protected from arbitrary and unfair rate hikes.

"The Fair Electricity Rate Action Fund is not opposed to the construction of a second nuclear power plant, but we are opposed to AMEREN's attempt to use the possibility of that project as an excuse to roll back consumer protections and allow unchecked electricity rate increases," Keller said.

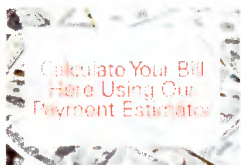


Help Us Keep Your Energy Rates Down

Welcome

Ameren Customers Face 18% Rate Hike

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PRESS RELEASE  
December 10, 2009

For Immediate Release  
Contact: Chuck Poplstein  
314-807-4364

**FERAF ANNOUNCES PUBLIC RELATIONS CAMPAIGN IN CONNECTION WITH AMEREN RATE HIKE REQUEST**

**Employer and Consumer Group will Educate the Public about Ameren's 18% Rate Hike Request before the Missouri Public Service Commission (PSC)**

**St. Louis, Mo.** - Today, the Fair Electricity Rate Action Fund (FERAF) announced that it will be conducting a public relations effort to educate Missouri families about Ameren's 18% rate hike before the Missouri Public Service Commission (PSC).

FERAF's public relations effort will educate Missourians through every available means about the impact Ameren's 18% rate hike would have on Missouri's working families. In the last eight years, Ameren has requested rate increases on Missouri electrical consumers of \$1.4 billion and is requesting another 18% increase now, despite a Missouri unemployment rate of roughly 9%.

"As FERAF members, we respect the PSC and its process and want to make sure as many Missourians as possible know about Ameren's requested 18% rate hike," said Bob Quinn, Executive Director of the Missouri Association for Social Welfare, a FERAF member. "In order to ensure that, we'll be communicating with Missourians directly about the request before the PSC to raise their electricity rates by 18%."

**About FERAF:** FERAF is a consumer and employer group dedicated to keeping Missouri's electricity rates fair. FERAF's membership is comprised of consumer and business groups and includes the AARP, the Missouri Association for Social Welfare (MASW), the Missouri Retailers Association, the Missouri Rice Research and Merchandising Council, the Consumer Council of Missouri and several of Missouri's largest employers, among others.

Get Involved

Missouri Public Service Commission

The Public Service Commission (PSC) is in place to protect citizens from unnecessary or out of check energy rate hikes. The PSC welcomes your input on the upcoming Ameren rate hike hearing.

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