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

In the Matter of Union Electric Company	)	
d/b/a AmerenUE for Authority to File	)	
Tariffs Increasing Rates for Electric	)	Case No. ER-2008-0318
Service Provided to Customers in the	)	
Company's Missouri Service Area.	)	

## MOTION TO MAKE TESTIMONY PUBLIC

COMES NOW the Office of the Public Counsel and for its Motion to Make Testimony
Public states as follows:

- 1. On April 4, 2008, Union Electric Company d/b/a AmerenUE filed a general rate case along with supporting testimony. Certain portions of the testimony were designated as Highly Confidential.
- 2. Under the Commission's rules (4 CSR 240-2.135(10)), a utility does not have to state any grounds for designating prefiled testimony as Highly Confidential unless another party challenges the designation. Thus, absent a challenge, there will be nothing in the public record that explains why portions of the record are sealed. In its Final Order of Rulemaking in Case No. AX-2003-0404 in which 4 CSR 240-2.135 was adopted, the Commission stated:

The filing of testimony as proprietary or highly confidential takes place later in the hearing process [than does discovery], at a time when all the parties are more familiar with the information and can better judge whether the information should be protected from disclosure. In contrast, a discovery response claiming that information should be protected from disclosure will frequently concern information that is unfamiliar to the discovering party. As a result, the discovering party may not be able to determine whether that information should be protected unless the party asserting that it should be treated as proprietary or highly confidential gives a reason for that designation.

3. In this instance, the testimony filing was the very first filing in the case, before discovery has even commenced. There is no good way to judge, in the context of discovery or

other information, whether the designated information should be kept from public view. There may be valid reasons for the Commission to decide to allow this testimony to remain sealed, but there is currently nothing in the case that would explain what those reasons may be.

- 4. Commission rule 4 CSR 240-2.135(11) allows any party to challenge a utility's designation of information as Highly Confidential or Proprietary. In response the utility may: "file a pleading establishing the specific nature of the information that it seeks to protect and establishing the harm that may occur if that information is disclosed to the public." Public Counsel submits that the public and the Commission will be well served by such explanation.
- 5. Specifically, Public Counsel moves that the Commission declassify all of the following testimony: Direct Testimony of Ajay K. Arora, Direct Testimony of Scott A. Glaser, Direct Testimony of Randall J. Irwin, Direct Testimony of Martin J. Lyons, Jr., Direct Testimony of Robert K. Neff, Direct Testimony of Shawn E. Schukar, and Direct Testimony of Thomas R. Voss.

WHEREFORE, Public Counsel respectfully requests that, absent a compelling explanation from AmerenUE justifying confidential treatment, the Commission open up to the public view all of the direct testimony and schedules filed on April 4, 2008.

Respectfully submitted,

OFFICE OF THE Public Counsel

/s/ Lewis R. Mills, Jr.

By:\_\_\_\_\_

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## **CERTIFICATE OF SERVICE**

**Kevin Thompson** 

I hereby certify that copies of the foregoing have been emailed to all parties this 11th day of April 2008.

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