

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

**FILED<sup>3</sup>**

JUN 02 2003

In re: Application of Union Electric Company    )  
for Authority to Participate in the Midwest        )  
ISO through a Contractual Relationship            )  
with GridAmerica                                        )

Missouri Public  
Service Commission

**CASE NO. EO-2003-0271**

**PUBLIC COUNSEL'S SECOND MOTION TO COMPEL**

COMES NOW Office of the Public Counsel (Public Counsel) pursuant to Commission Rule 4 CSR 240-2.090 and Rule of Civil Procedure 56.01, and for its Second Motion to Compel states as follows:

1. On April 30, 2003, Public Counsel propounded Data Requests Nos. 574 and 575 to Union Electric Company d/b/a AmerenUE (Company). (Attachment A)

Both data request ask for information supporting a quote that was contained in a pleading filed at the Federal Energy Regulatory Commission (FERC) relating to the transfer over functional control of transmission facilities that is the subject of the instant case before the Missouri Public Service Commission (Commission). On April 30, 2003, Company made timely objections to Data Request 574 and 575, claiming that the information requested is "irrelevant, and is not likely to result in the discovery of relevant information." (Attachment D)

2. However, it is important for Public Counsel to understand what Company relied upon in making this statement to the FERC and to receive identification of the generating units involved which will be relevant to understanding the impact that

Location Marginal Pricing (LMP) will have upon Company if the Commission approves its Application in this case.

3. On April 30, 2003, Public Counsel propounded Data Requests Nos. 576 HC and 577 HC to Company (Attachment B-HC) as part of Public Counsel's attempt to use discovery to understand Company's long-term transmission strategies. Public Counsel had previously received a response to its Data Request No. 524, in which Company claimed that Ameren's strategic plan for its transmission business line was included in the "Energy Delivery Business line." (See Attachment G) Public Counsel Data Requests 576 HC and 577 HC both request a copies of documents referenced in Ameren's Energy Delivery Business line strategic development plan. These two data requests are merely attempting to uncover Company's strategic plan for its transmission facilities.

Company made timely objections to these two data requests based on the grounds that the information is irrelevant and not likely to result in the discovery of relevant information. (Exhibit D) Public Counsel believes that these two data requests are reasonably calculated to lead to the discovery of information that would be relevant to the subject matter of this case. Public Counsel is merely following up on the documents that Company itself has identified as being related to its strategic plan for its transmission facilities. Often the relevance of a document cannot be determined by its title, and in this case, Public Counsel is merely following proper discovery to locate the documents which truly contain Ameren's strategic plans relating to the transmission facilities at issue in this matter.

3. On May 10, 2003, Public Counsel propounded Data Request Nos. 583 and 584 to Company. (Attachment C) These two data requests ask for the cost that Company has incurred in the past three years relating to Company's participation or possible participation in the Midwest ISO, RTOs in general, GridAmerica, and/or ITCs in general. Company filed a timely objection on May 16, 2003 claiming that these two data requests are "irrelevant and request information that is not likely to result in the discovery of relevant material." (Attachment E)

It is hard to understand Company's claim that these data requests are irrelevant since they seek information relating to the cost incurred by Company to pursue participation in the very entities that are the subject of the case at hand. Moreover, responses to these two data requests are relevant to the rebuttal testimony of Aquila, Inc. witness Jon McKinney, who recommends that the Commission make a finding in this case regarding the "reasonableness and recoverability of RTO costs as part of this application." Ibid., p. 5.

On May 20, 2003, Company submitted an amended objection by email adding the additional objection that these two data requests are overly broad and unduly burdensome. Public Counsel believes that the cost that UE or its affiliates have incurred in the past four fiscal years relating to RTO and ITC participation should be readily available to Company and would not be burdensome to provide.

4. Public Counsel and Company have attempted to resolve the discovery disputes described above through telephone calls, email and a teleconference held with Judge Lewis Mills pursuant to Rule 4 CSR 240-2.090(8)(B) on May 23, 2003.

WHEREFORE, Public Counsel respectfully requests that the Commission compel Company to produce full responses to Public Counsel Data Requests 574, 575, 576 HC, 577 HC, 583 and 584.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

**/s/ John B. Coffman**

By: 

John B. Coffman (#36591)  
Acting Public Counsel  
P. O. Box 7800  
Jefferson City, MO 65102  
(573) 751-5565  
(573) 751-5562 FAX  
[jcoffman@ded.state.mo.us](mailto:jcoffman@ded.state.mo.us)

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following this 2<sup>nd</sup> day of June 2003:

**STEVE DOTTHEIM**

Missouri Public Service Commission  
PO Box 360  
Jefferson City MO 65102  
*Attorney for MO PSC*

**DENNY FREY**

Missouri Public Service Commission  
PO Box 360  
Jefferson City MO 65102  
*Attorney for MO PSC*

**DAVID B HENNEN**

AmerenUE  
1901 Chouteau Avenue  
PO Box 66149 (MC 1310)  
St Louis MO 63166-6149

**JAMES B LOWERY**

111 South Ninth Street  
Suite 200  
PO Box 918  
Columbia MO 65202-0918  
*Attorney for AmerenUE*

**MICHAEL A RUMP**

Kansas City Power & Light  
1201 Walnut  
PO Box 418679  
Kansas City MO 64141-9679  
*Attorney for Kansas City Power & Light*

**DIANA M VUYLSTEKE**

Bryan Cave LLP  
211 N Broadway  
St Louis MO 63102  
*Attorney for Missouri Industrial Energy*

**LISA C LANGENECKERT**

Law Office of Robert Johnson  
720 Olive Street  
24<sup>th</sup> Floor  
St Louis MO 63101  
*Attorney for Missouri Energy Group*

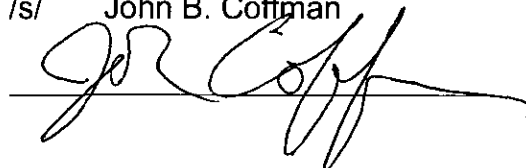
**JEFFREY A KEEVIL**

Stewart & Keevil  
1001 Cherry Street  
Suite 302  
Columbia MO 65201  
*Attorney for Grid USA*

**KARL ZOBRIST**

2300 Main Street  
Suite 1000  
PO Box 419777  
Kansas City MO 64141-6777  
*Attorney for Midwest Independent Transmission System Operator, Inc.*

/s/ John B. Coffman

A handwritten signature in black ink, appearing to read 'John B. Coffman', is written over a horizontal line.

AMERENUE  
CASE NO. EO-2003-271

REQUESTED BY: RYAN KIND  
REQUESTED FROM: DAVID WHITELEY  
DATE OF REQUEST: APRIL 30, 2003

INFORMATION REQUESTED: Ameren and the other GridAmerica applicants submitted a Joint Amendment to Request for Authorization to Transfer Functional Control Over Transmission Facilities to FERC on January 31, 2003. On page six of this pleading under the section heading entitled "AmerenUE", the applicants stated that AmerenUE also is entitled to 40% of the output of generators owned by Electric Energy, Inc. and its subsidiary, Midwest Electric Power, Inc. Please provide the basis for the statement that "AmerenUE also is entitled to 40% of the output of generators owned by Electric Energy, Inc. and its subsidiary, Midwest Electric Power, Inc." If Ameren relied on anything other than the current contract (and letter supplements) between EEI and UE as the basis for this statement, please specify all of the other contracts and ownership entitlements that were relied upon.

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THIS RESPONSE INCLUDES:

☐ Printed Materials \_\_\_\_\_ Total Pages ☐ Magnetic Media \_\_\_\_\_ Number of disks or tapes  
Please number each section of multiple pages as: File formats for data: \_\_\_\_\_

# of Total #

LIST PRINTED MATERIALS AND/OR FILES INCLUDED:

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The information provided to the Office of the Public Counsel in response to the above information request is accurate and complete, and contains no material misrepresentations or omissions based upon present known facts to the undersigned. The undersigned agrees to immediately inform the Office of the Public Counsel if any matters are discovered which would materially affect the accuracy or completeness of the information provided in response to the above information.

DATE RECEIVED: \_\_\_\_\_ SIGNED BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_

AMERENUE  
CASE NO. EO-2003-271

REQUESTED BY: RYAN KIND  
REQUESTED FROM: DAVID WHITELEY  
DATE OF REQUEST: APRIL 30, 2003

INFORMATION REQUESTED: Ameren and the other GridAmerica applicants submitted a Joint Amendment to Request for Authorization to Transfer Functional Control Over Transmission Facilities to FERC on January 31, 2003. On page six of this pleading under the section heading entitled "AmerenUE", the applicants stated that AmerenUE also is entitled to 40% of the output of generators owned by Electric Energy, Inc. and its subsidiary, Midwest Electric Power, Inc. Please specify the names, locations, in service dates, and nameplate capacities of each of the Midwest Electric Power, Inc. generating units for which AmerenUE is entitled to 40% of the output. Also, please identify the entities that are entitled to the remaining 60% of the output.

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DATE RECEIVED: \_\_\_\_\_ SIGNED BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_

Attachment A

Attachment B-HC  
has been deemed  
“Highly Confidential”  
in its entirety.



AMERENUE  
CASE NO. EO-2003-271

REQUESTED BY: RYAN KIND

REQUESTED FROM: DAVID WHITELEY

DATE OF REQUEST: . MAY 10, 2003.

INFORMATION REQUESTED: What costs has UE or its affiliates incurred in each of fiscal years 2000, 2001, 2002, and 2003 relating to UE's participation or possible participation in MISO or RTOs in general?

**THIS RESPONSE INCLUDES:**

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DATE RECEIVED: \_\_\_\_\_

SIGNED BY: \_\_\_\_\_

TITLE:

AMERENUE  
CASE NO. EO-2003-271

REQUESTED BY: RYAN KIND  
REQUESTED FROM: DAVID WHITELEY  
DATE OF REQUEST: MAY 10, 2003

INFORMATION REQUESTED: What costs has UE or its affiliates incurred in each of fiscal years 2000, 2001, 2002, and 2003 relating to UE's participation or possible participation in GridAmerica or ITCs in general?

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THIS RESPONSE INCLUDES:

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DATE RECEIVED: \_\_\_\_\_ SIGNED BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_

FILE COPY

April 30, 2003

**VIA FAX AND U.S. MAIL**  
573-751-5562



Mr. John B. Coffman  
Office of the Public Counsel  
200 Madison Street, Suite 650  
Governor Office Building  
Jefferson City, MO 65101

Re: Case No. EO-2003-0271

Dear Mr. Coffman:

AmerenUE hereby objects to OPC Data Request Nos. 549, 550, 551, 552, 566, 567, 574, 575, 576, and 577 in the above matter. AmerenUE objects to Data Request Nos. 549, 550, 551 and 552 on the grounds that the information requested calls for a legal conclusion; and to Data Request Nos. 566, 567, 574, 575, 576 and 577 on the grounds that the information requested is irrelevant, and is not likely to result in the discovery of relevant information.

If you have any questions, please contact me to discuss our objection to this data request.

Very truly yours,

A handwritten signature in dark ink, appearing to read "David B. Hennen", written over a horizontal line.

David B. Hennen  
Associate General Counsel

MAY 06 2003

Attachment D

FILE COPY

May 16, 2003

**VIA FAX AND FEDERAL EXPRESS**



Mr. John B. Coffman  
Office of the Public Counsel  
200 Madison Street, Suite 650  
Governor Office Building  
Jefferson City, MO 65101

Re: Case No. EO-2003-0271

Dear Mr. Coffman:

AmerenUE hereby objects to OPC Data Request Nos. 583 and 584 in the above matter on the grounds that the requests are irrelevant and requests information that not likely to result in the discovery of relevant material.

Additionally, AmerenUE objects to OPC Data Request Nos. 590, 591, and 593 on the grounds that the requests are overlybroad and unduly burdensome.

If you have any questions, please contact Sivon Williams or me to discuss our objection to this data request.

Very truly yours,

A handwritten signature in cursive script that reads "David B. Hennen / suw".

David B. Hennen  
Associate General Counsel

Cc: Diana Vuylsteke, MIEC  
Mr. Dennis Frey, MPSC

MAY 19 2003

Attachment E

AmerenUE's Response to  
OPC Staff Data Request  
Case No. EO-2003-0271  
AmerenUE's request to participate in MISO  
through its contractual relationship with GridAmerica

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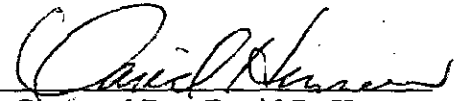
No. 583:

What costs has UE or its affiliates incurred in each of fiscal years 2000, 2001, 2002, and 2003 relating to UE's participation or possible participation in MISO or RTOs in general?

Response:

AmerenUE objects to OPC Data Request No. 583 on the grounds that the information requested is irrelevant and not likely to lead to admissible evidence in this case.

Signed By:



Prepared By: David B. Hennen  
Title: Associate General Counsel

19 2003

AmerenUE's Response to  
OPC Staff Data Request  
Case No. EO-2003-0271  
AmerenUE's request to participate in MISO  
through its contractual relationship with GridAmerica.

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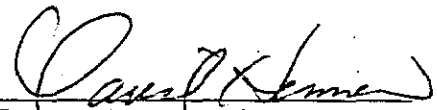
No. 584:

What costs has UE or its affiliates incurred in each of fiscal years 2000, 2001, 2002, and 2003 relating to UE's participation or possible participation in GridAmerica or ITCs in general?

Response:

AmerenUE objects to OPC Data Request No. 584 on the grounds that the information requested is irrelevant and unlikely to lead to admissible evidence in this case.

Signed By:

  
Prepared By: David B. Hennen  
Title: Associate General Counsel

## Coffman, John

---

**From:** Jim Lowery [JLowery@smithlewis.com]  
**Sent:** Tuesday, May 20, 2003 3:11 PM  
**To:** jcoffman@ded.state.mo.us  
**Cc:** DHennen@ameren.com  
**Subject:** Discovery -- EO-03-271



amended obj opc dr  
583, 584.do...

John:

Please find attached amended responses/objections to OPC DRS 583 and 584.

James B. Lowery  
Smith Lewis, LLP  
111 S. Ninth St., Ste. 200  
Columbia, MO 65201  
P.O. Box 918  
Columbia, MO 65202  
573-443-3141 (o)  
573-442-6686 (fax)  
573999-2081 (cell)  
lowery@smithlewis.com

AmerenUE's Amended Response to  
OPC Staff Data Request  
Case No. EO-2003-0271  
AmerenUE's request to participate in MISO  
through its contractual relationship with GridAmerica

No. 583:

What costs has UE or its affiliates incurred in each of fiscal years 2000, 2001, 2002, and 2003 relating to UE's participation or possible participation in MISO or RTOs in general?

Amended Response:

AmerenUE objects to OPC Data Request No. 583 on the grounds that the information requested is irrelevant, not likely to lead to admissible evidence in this case, and is overbroad and unduly burdensome.

Signed By: /s/ James B. Lowery  
Prepared By: James B. Lowery  
Counsel for AmerenUE



AmerenUE's Amended Response to  
OPC Staff Data Request  
Case No. EO-2003-0271  
AmerenUE's request to participate in MISO  
through its contractual relationship with GridAmerica

No. 584:

What costs has UE or its affiliates incurred in each of fiscal years 2000, 2001, 2002, and 2003 relating to UE's participation or possible participation in GridAmerica or ITCs in general?

Amended Response:

AmerenUE objects to OPC Data Request No. 584 on the grounds that the information requested is irrelevant, not likely to lead to admissible evidence in this case, and is overbroad and unduly burdensome.

Signed By: /s/ James B. Lowery  
Prepared By: James B. Lowery  
Counsel for AmerenUE

FILE COPY

One Ameren Plaza  
1901 Chouteau Avenue  
PO Box 66149  
St. Louis, MO 63166-6149  
314.521.3222  
314.554.4673  
314.554.4014 (fax)  
sivon\_williams@ameren.com

April 24, 2003

**VIA FEDERAL EXPRESS**



Mr. John Coffman  
Office of the Public Counsel  
200 Madison Street, Suite 650  
Governor Office Building  
Jefferson City, MO 65101

Re: Case No. EO-2003-0271

Dear Mr. Coffman:

Enclosed please find AmerenUE's response to OPC Data Request No. 524 in the above matter.

If you have any questions, please call.

Sincerely,

A handwritten signature in cursive script that reads "Sivon Williams".

Sivon Williams  
Administrative Assistant

Enclosure

cc: Dennis Frey, Missouri Public Service Commission  
Diana Vuylsteke, Missouri Industrial Energy Consumers

APR 25 2003

AmerenUE's Response to  
OPC Staff Data Request  
Case No. EO-2003-0271  
AmerenUE's request to participate in MISO  
through its contractual relationship with GridAmerica

No. 524:

Please provide the most recently created draft of the Ameren strategic plan for Ameren's transmission business line. If no Ameren strategic plan for its transmission business line has been created, please provide a statement to that effect. If AmerenUE's response to this DR does not include all documents within the scope of those requested due to AmerenUE's belief that the excluded documents are covered by attorney client privilege or the attorney work product doctrine or some other objection, please provide the following information regarding each excluded document: the document's date, title, author, recipients, a general description of its contents, and a specific citation of the particular privilege cited.

Response: Ameren Transmission is included in the Energy Delivery Business line and as such Corporate Strategy 2.3, submitted under an earlier data request, covers the transmission strategic plan for Ameren.

(Type in response here)

Signed By:



Prepared By: Mark C. Birk  
Title: Vice President EDTS