

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

In the Matter of Union Electric Company)	
d/b/a AmerenUE's Filing to Adjust Rates)	
under its Approved Fuel and Purchased)	<u>Case No. ER-2011-0018</u>
Power Cost Recovery Mechanism)	
Pursuant to 4 CSR 240-20.090(4))	

**PUBLIC COUNSEL’S MOTION TO REJECT TARIFF, OR IN THE ALTERNATIVE,
MOTION TO SUSPEND AND REQUEST FOR HEARING**

COMES NOW the Office of the Public Counsel for its Public Counsel’s Motion to Reject Tariff, or in the Alternative, Motion to Suspend and Request for Hearing states as follows:

1. On July 23, 2010, AmerenUE filed a tariff sheet designed to increase AmerenUE’s revenues from its Fuel Adjustment Clause (FAC) charges by \$71,225,756 during Recovery Period 4 (October 1, 2010 through September 30, 2011). The tariff sheet, 1st Revised Sheet No. 98.14, bears an effective date of September 23, 2010.

2. On August 23, 2010, the Commission Staff recommended that the Commission issue an order approving AmerenUE’s FAC Tariff. But on August 31, eight days later, in Case No. EO-2010-0255 (the prudence review of the first and second accumulation periods under AmerenUE’s FAC), the Staff recommended an adjustment based on AmerenUE’s failure to properly flow off-system sales revenues through the FAC. In that case, Staff noted that:

File No. ER-2011-0018 contains a request from AmerenUE for a true-up of its first recovery period. Staff filed its recommendation to approve the change to the FPA factor. The change does not include an adjustment for the prudence determination in this case. The current effective date of the change to the tariff sheet is September 23, 2010. The FPA will next be modified in the February 2011 billing month. (page 3, footnote 1).

3. Commission Rule 4 CSR 240-2.070 (4) **requires** the Commission to reject a FAC rate adjustment that “is not in accordance with this rule, section 386.266 RSMo, and the FAC

mechanism established in the most recent general rate proceeding.” In addition to rejecting the noncompliant rate adjustment, the Commission “**may** instead order implementation of an appropriate rate schedule.” (4 CSR 240-2.070 (4); emphasis added). Based upon the Staff recommendation in Case No. EO-2010-0255, which is supported and verified by affidavits, the Commission should find that 1st Revised Sheet No. 98.14 is not in accordance with this rule, section 386.266 RSMo, and the FAC mechanism established in the most recent general rate proceeding and reject it.

4. In the alternative, if the Commission determines that it does not yet have sufficient information to reject the tariff, Public Counsel requests that the Commission suspend the tariff and schedule a prehearing conference so that the parties may propose a procedural schedule including an evidentiary hearing.

WHEREFORE, Public Counsel respectfully requests that the Commission reject 1st Revised Sheet No. 98.14. In the alternative, Public Counsel respectfully requests that the Commission suspend 1st Revised Sheet No. 98.14 and schedule a prehearing conference so that the parties may propose a procedural schedule including an evidentiary hearing.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Lewis R. Mills, Jr.

By: _____
Lewis R. Mills, Jr. (#35275)
Public Counsel
P O Box 2230
Jefferson City, MO 65102
(573) 751-1304
(573) 751-5562 FAX
lewis.mills@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been emailed this 10th day of September 2010 to all parties of record.

General Counsel Office
Missouri Public Service Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
GenCounsel@psc.mo.gov

Williams Nathan
Missouri Public Service Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Nathan.Williams@psc.mo.gov

Coffman B John
AARP
871 Tuxedo Blvd.
St. Louis, MO 63119-2044
john@johncoffman.net

Coffman B John
Consumers Council of Missouri
871 Tuxedo Blvd.
St. Louis, MO 63119-2044
john@johncoffman.net

Schroder A Sherrie
IBEW Local Union 1439
7730 Carondelet Ave., Ste 200
St. Louis, MO 63105
saschroder@hammondshinners.com

Evans A Michael
IBEW Local Union 1439
7730 Carondelet, Suite 200
St. Louis, MO 63105
mevans@hammondshinners.com

Schroder A Sherrie
IBEW Local Union 1455
7730 Carondelet Ave., Ste 200
St. Louis, MO 63105
saschroder@hammondshinners.com

Evans A Michael
IBEW Local Union 1455
7730 Carondelet, Suite 200
St. Louis, MO 63105
mevans@hammondshinners.com

Schroder A Sherrie
IBEW Local Union 2
7730 Carondelet Ave., Ste 200
St. Louis, MO 63105
saschroder@hammondshinners.com

Evans A Michael
IBEW Local Union 2
7730 Carondelet, Suite 200
St. Louis, MO 63105
mevans@hammondshinners.com

Schroder A Sherrie
IBEW Local Union 309
7730 Carondelet Ave., Ste 200
St. Louis, MO 63105
saschroder@hammondshinners.com

Evans A Michael
IBEW Local Union 309
7730 Carondelet, Suite 200
St. Louis, MO 63105
mevans@hammondshinners.com

Schroder A Sherrie
IBEW Local Union 649
7730 Carondelet Ave., Ste 200
St. Louis, MO 63105
saschroder@hammondshinners.com

Evans A Michael
IBEW Local Union 649
7730 Carondelet, Suite 200
St. Louis, MO 63105
mevans@hammondshinners.com

Schroder A Sherrie
IBEW Local Union 702
7730 Carondelet Ave., Ste 200
St. Louis, MO 63105
saschroder@hammondshinners.com

Evans A Michael
IBEW Local Union 702
7730 Carondelet, Suite 200
St. Louis, MO 63105
mevans@hammondshinners.com

Schroder A Sherrie
International Union of Operating Engineers-
Local No 148
7730 Carondelet Ave., Ste 200
St. Louis, MO 63105
saschroder@hammondshinners.com

Evans A Michael
International Union of Operating Engineers-
Local No 148
7730 Carondelet, Suite 200
St. Louis, MO 63105
mevans@hammondshinners.com

Pendergast C Michael
Laclede Gas Company
720 Olive Street, Suite 1520
St. Louis, MO 63101
mpendergast@lacledegas.com

Zucker E Rick
Laclede Gas Company
720 Olive Street
St. Louis, MO 63101
rzucker@lacledegas.com

Henry G Kathleen
Missouri Coalition for the Environment
705 Olive Street, Suite 614
St. Louis, MO 63101
khenry@greatriverslaw.org

Morrison A Bruce
Missouri Coalition for the Environment
705 Olive Street, Suite 614
St. Louis, MO 63101
bamorrison@greatriverslaw.org

Robertson B Henry
Missouri Coalition for the Environment
705 Olive Street, Suite 614
St. Louis, MO 63101
hrobertson@greatriverslaw.org

Woods A Shelley
Missouri Department of Natural Resources
P.O. Box 899
Jefferson City, MO 65102-0899
shelley.woods@ago.mo.gov

Langeneckert C Lisa
Missouri Energy Group
600 Washington Avenue, 15th Floor
St. Louis, MO 63101-1313
llangeneckert@sandbergphoenix.com

Vuylsteke M Diana
Missouri Industrial Energy Consumers
211 N. Broadway, Suite 3600
St. Louis, MO 63102
dmvuylsteke@bryancave.com

Henry G Kathleen
Missourians for Safe Energy
705 Olive Street, Suite 614
St. Louis, MO 63101
khenry@greatriverslaw.org

Morrison A Bruce
Missourians for Safe Energy
705 Olive Street, Suite 614
St. Louis, MO 63101
bamorrison@greatriverslaw.org

Robertson B Henry
Missourians for Safe Energy
705 Olive Street, Suite 614
St. Louis, MO 63101
hrobertson@greatriverslaw.org

Vuylsteke M Diana
Noranda Aluminum, Inc.
211 N. Broadway, Suite 3600
St. Louis, MO 63102
dmvuylsteke@bryancave.com

Carlson E Robert
State of Missouri
P.O. Box 861
St. Louis, MO 63188
bob.carlson@ago.mo.gov

Carew S Koriambanya
The Commercial Group
2400 Pershing Road, Suite 500
Crown Center
Kansas City, MO 64108
carew@bscr-law.com

Chamberlain D Rick
The Commercial Group
6 NE 63rd Street, Ste. 400
Oklahoma City, OK 73105
rdc_law@swbell.net

Fischer M James
Union Electric Company
101 Madison Street, Suite 400
Jefferson City, MO 65101
jfischerpc@aol.com

Lowery B James
Union Electric Company
111 South Ninth St., Suite 200
P.O. Box 918
Columbia, MO 65205-0918
lowery@smithlewis.com

Sullivan R Steven
Union Electric Company
1901 Chouteau Avenue
P.O. Box 66149 (MC 1300)
St. Louis, MO 63166-6149
AmerenUEService@ameren.com

Byrne M Thomas
Union Electric Company
1901 Chouteau Avenue
P.O. Box 66149 (MC 1310)
St. Louis, MO 63166-6149
AmerenUEService@ameren.com

Tatro Wendy
Union Electric Company
1901 Chouteau Avenue
St. Louis, MO 63166-6149
AmerenUEService@ameren.com

/s/ Lewis R. Mills, Jr.
