

**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) Case No. ER-2011-0028
Annual Revenues for Electric Service)

**MOTION FOR LEAVE TO FILE
TESTIMONY OUT OF TIME**

COMES NOW the Missouri Industrial Energy Consumers (“MIEC”) and requests leave to file the *Direct Testimony of Henry Fayne* and the *Direct Testimony of Kip Smith* Out of Time. In support of its motion, the MIEC states:

1. Paragraph (L) of the Commission’s November 10, 2010, *Order Adopting Procedural Schedule* in this case which waives 4 CSR 240-2.045(2) and 2.080(11) with respect to prefiled testimony and other pleadings states that the Commission will treat filings made through the Commission’s Electronic Filing and Information System (“EFIS”) as timely filed if filed before midnight on the date the filing is due.

2. Despite numerous attempts prior to midnight on February 10, 2011, the MIEC was unable to access the EFIS System to file testimony. The MIEC served all parties at 12:02 a.m. with *Direct Testimony of Kip Smith* and the *Direct Testimony of Henry Fayne* when the testimony was unable to be filed on EFIS. The *Direct Testimony of Kip Smith* was filed at 12:18 a.m. on Friday, February 11, 2011.

3. Counsel for the MIEC confirmed on Monday, February 14, 2011, with the Missouri Public Service Commission Data Center that the EFIS System was not working properly on the evening of Thursday, February 10, 2011. Due to this malfunction of the EFIS system, although the *Direct Testimony of Kip Smith* was accepted into EFIS, the *Direct Testimony of Henry Fayne* was not accepted into EFIS.

For the foregoing reasons, the MIEC respectfully requests the Commission accept for filing the *Direct Testimony of Kip Smith* and the *Direct Testimony of Henry Fayne*.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 14th day of February, 2011, to all parties on the Commission's service list in this case.

/s/ Diana Vuylsteke