

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

In the Matter of Union Electric Company, d/b/a	)	<u>File No. ER-2011-0028</u>
Ameren Missouri's Tariff to Increase Its Annual	)	<u>Tariff No. YE-2011-0116</u>
Revenues for Electric Service	)	

**ORDER DENYING AMEREN MISSOURI'S MOTION TO STRIKE THE  
TESTIMONY OF PETREE A. EASTMAN**

Issue Date: April 29, 2011

Effective Date: April 29, 2011

On April 18, 2011, Ameren Missouri filed a motion asking the Commission to strike the prefiled direct, rebuttal, and surrebuttal testimonies of Petree A. Eastman, filed on behalf of the Municipal Group. Ameren Missouri contends Ms. Eastman does not meet the minimum legal requirements to qualify as an expert witness. Consequently, Ameren Missouri contends she is incompetent, as a matter of law, to provide opinion testimony. The Municipal Group responded on April 28.

The standard for acceptance of expert testimony is established by section 490.065.1, RSMo 2000. That statute allows a "witness qualified as an expert by knowledge, skill, experience, training, or education" to offer opinion testimony regarding "scientific, technical or other specialized knowledge" to assist the trier of fact in understanding the evidence or determining a fact in issue. The qualification of a witness as an expert rests within the fact finders discretion.<sup>1</sup> A reviewing court will not reverse the Commission's discretionary decision regarding a witness' qualification as an expert unless

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<sup>1</sup> *State ex rel. Missouri Gas Energy v. Pub. Serv. Comm'n*, 186 S.W.3d 376, 382 (Mo. App. W.D. 2005).

that decision “is so arbitrary and unreasonable that it shocks the court’s sense of justice and it is clearly against the logic of the surrounding circumstances.”<sup>2</sup>

Petree Eastman has offered testimony on behalf of the Municipal Group regarding aspects of Ameren Missouri’s street lighting tariffs and the effect those tariffs have had on the municipalities that take electric service under those tariffs. Ms. Webster has a BA degree from Webster University, a JD degree from St. Louis University, and a masters degree in city planning from the University of California at Berkely. In addition, she is an assistant City Manager for the City of University City, Missouri. Based on her education and training the Commission finds that she is qualified to offer an expert opinion about the matters for which she has offered testimony. In making this ruling, the Commission is not making any findings about Ms. Eastman’s credibility as a witness, nor is it deciding how much weight it will give to her opinions.

**THE COMMISSION ORDERS THAT:**

1. Ameren Missouri’s Motion to Strike, or Otherwise Disallow, the Prepared Direct, Rebuttal, and Surrebuttal Testimonies of Petree A. Eastman is denied.
2. This order shall become effective immediately upon issuance.

( S E A L )

Morris L. Woodruff, Chief Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 29<sup>th</sup> day of April, 2011.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

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<sup>2</sup> *Id.*, at 391.