

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

|  |   |                              |
|--|---|------------------------------|
| The Staff of the Missouri Public Service Commission, | ) |                              |
|  | ) |                              |
|  | ) |                              |
| Complainant,   | ) |                              |
|  | ) |                              |
| v.   | ) | <b>Case No. GC-2006-0350</b> |
|  | ) |                              |
| Union Electric Company, d/b/a                        | ) |                              |
| AmerenUE,  | ) |                              |
|  | ) |                              |
| Respondent.  | ) |                              |

**STAFF RESPONSE TO ORDER DIRECTING FILING**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff) and for its Response To Order Directing Filing, states as follows:

On July 5, 2006, the Commission issued its *Order Directing Filing* (Order) in the above-captioned complaint case. In its Order, the Commission directed that Staff shall file a pleading, no later than July 20, 2006, responding to the following questions:

- 1. How many individual properties, both residential and commercial, were affected by the rule violation, including those that did not have property damage?**

According to AmerenUE's best information, 749 customers on the low-pressure system lost service during the incident.<sup>1</sup> Another 196 customers on the newly installed high-pressure system also lost service when that system was shut down. Consequently, a total of 945

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<sup>1</sup> According to the "Incident Report – Gas Distribution System" (DOT-OPS form PHMSA F 7100.1), filed by AmerenUE on November 8, 2005, approximately 750 customers on the low-pressure system were affected when it was shut down. (See Part G of this report, attached as Appendix C to Staff's Incident Report filed on March 10, 2006 in Case No. GS-2006-0199).

customers on both low-pressure and high-pressure systems lost service. AmerenUE estimates that an additional 300 customers shut off their own service during the incident.

**2. Have all of the customers affected by the outage been “made whole”?**

Not all customers have yet been made whole. Two claims are still pending. In one instance, AmerenUE is waiting for the customer to sign and return the release before sending him his payment. In the other case, the customer elected to file a claim with his own insurance company, which will have a subrogation claim. AmerenUE intends to pay this claim. All other claims have been resolved.

**3. Were the customers that were compensated for their losses compensated by AmerenUE? Or were they compensated by their own insurance carriers?**

AmerenUE has compensated customers for their losses – not their insurance carriers. In the one case mentioned above in response to question number 2, where the customer has elected to file a claim with his own insurance carrier, AmerenUE expects to pay the insurance carrier when details of the claim are provided.

**4. Explain further the analysis behind the parties’ position that a rule violation affecting numerous customers is subject to only a maximum penalty of \$2,000. Could the rule violation be considered to be more than one “offense” under Section 386.570, RSMo?**

This complaint alleged that AmerenUE violated 4 CSR 240-40.030(12)(O)1.A and B, which states in relevant part:

“No person may operate a low-pressure distribution system at a pressure greater than– A. A pressure high enough to make unsafe the operation of any connected and properly adjusted low-pressure gas utilization equipment; or B. An equivalent of fourteen inches (14”) water column.”

This incident, the subject of this complaint, involves a single, discrete, non-recurring event that occurred when AmerenUE connected a high-pressure (10 psig) line to a low-pressure distribution system in Boonville.

Commission Rule 4 CSR240-40.030(1)(B)13. and 14. define “low pressure distribution system” as “...a distribution system in which the gas pressure in the main is less than or equal to an equivalent of fourteen inches (14”) water column” and “main means a distribution line that serves as a common source of supply for more than one (1) service line”<sup>2</sup>.

As described above, a violation of this rule (4 CSR 240-40.030(12)(O)1.A and B.) occurs when a low-pressure distribution system is operated at high pressure. A low-pressure distribution system comprises the entire piping network of mains and service lines. In this case, an employee under the supervision of AmerenUE connected a high-pressure gas line to the low-pressure system, causing an over-pressurization of the low-pressure system – hence, a violation of 4 CSR 240-40.030(12)(O)1.A and B. The language contained in the Commission rules do not define the rule violation, or even the number of violations, based on the number of customer service lines that are connected to the low-pressure distribution system. Customer service lines are a component of the low-pressure distribution system. Because AmerenUE over-pressured one low-pressure distribution system, one time, then only one rule violation may be determined under existing Commission rules.

Section 386.570.1 provides that:

“Any ...public utility which...fails, omits or neglects to obey, observe or comply with any ...rule...of the commission in which a penalty has not herein been provided for such ...public utility, is subject to a penalty of *not less than one hundred dollars nor more than two thousand dollars for each offense.*” [emphasis added]

Under this statute, a single violation of a Commission rule – the over-pressurization of a low-pressure distribution system – is subject to a penalty that may range from a minimum of \$100 to

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<sup>2</sup> A service line “...means a distribution line that transports gas from a common source of supply to a) a customer meter or the connection to a customer’s piping, whichever is farther downstream, or b) the connection to a customer’s piping if there is no customer meter...”. Commission Rule 4 CSR240-40.030(1)(B)24.

a maximum of \$2,000 for each offense. Accordingly, under Commission rules and applicable statute, the maximum penalty allowed for this single violation, or one offense, is \$2,000.

**WHEREFORE**, the Staff submits its Response as directed by Commission Order.

Respectfully submitted,

**/s/ Robert S. Berlin**

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**Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 18th day of July 2006.

/s/ **Robert S. Berlin**

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