

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

In the Matter of Union Electric Company d/b/a	)	
AmerenUE's Tariffs Increasing Rates for Electric	)	<b><u>Case No. ER-2007-0002</u></b>
Service Provided to Customers in the Company's	)	Tariff No. YE-2007-0007
Missouri Service Area	)	

**ORDER ADMITTING LATE-FILED EXHIBIT AND DENYING PUBLIC**  
**COUNSEL'S MOTION TO STRIKE TESTIMONY**

Issue Date: April 16, 2007

Effective Date: April 16, 2007

On April 3, 2007, Union Electric Company, d/b/a AmerenUE filed a motion asking the Commission to admit an affidavit of Richard A. Voytas as a late-filed exhibit. AmerenUE's motion indicates that on March 23, during his live testimony, Voytas testified that he recalled that Ryan Kind, a witness for the Office of the Public Counsel, had testified in the Metro East case (Case No. EO-2004-0108) that AmerenUE should have purchased the NRG Audrain combustion turbine facility for \$200 million. Voytas indicated that his recollection of Kind's testimony was "subject to check."<sup>1</sup>

Subsequently, on March 29, Public Counsel noted that Voytas had never returned to the stand to indicate whether he had "checked" to determine whether Kind had in fact testified in the Metro East case that AmerenUE should have purchased the Audrain facility for \$200 million. Since information about such a "check" was not in the record, Public Counsel moved that Voytas' testimony regarding Kind's statement be struck from the

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<sup>1</sup> Transcript, page 3124, lines 21-24.

record.<sup>2</sup> AmerenUE responded that it would review the transcript, check on Voytas' testimony, and file a response by April 3. The affidavit and motion that AmerenUE filed on April 3 is its response.

Commission Rule 4 CSR 240-2.080(15) provides that parties are allowed not more than ten days in which to respond to any pleading filed with the Commission. Furthermore, Commission Rule 4 CSR 240-2.130(17) provides that any objection to the admission of a post-hearing exhibit must be filed within ten days of the date the exhibit was filed. More than ten days have passed since AmerenUE filed its motion and post-hearing exhibit, and no party has filed a response.

Since no party has opposed the admission of AmerenUE's late-filed exhibit, the April 3, 2007 affidavit of Richard A Voytas, it will be marked as Exhibit 131, and will be admitted into evidence. Since Voytas has now "checked" his answer, Public Counsel's oral motion to strike the answer that Voytas offered subject to check will be denied.

**IT IS ORDERED THAT:**

1. The April 3, 2007 Affidavit of Richard A. Voytas is marked as Exhibit 131 and is admitted into evidence.
2. The Office of the Public Counsel's oral motion to strike a portion of the testimony of Richard A. Voytas, made on March 29, 2007, is denied.

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<sup>2</sup> Transcript, page 4425, lines 5-14.

3. This order shall become effective on April 16, 2007.

**BY THE COMMISSION**

Colleen M. Dale  
Secretary

( S E A L )

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

Dated at Jefferson City, Missouri,  
on this 16th day of April, 2007.