

**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-2010-0036
Annual Revenues for Electric Service)	

**MISSOURI INDUSTRIAL ENERGY CONSUMERS'
POST HEARING BRIEF IN OPPOSITION TO
AMERENUE'S REQUEST FOR INTERIM RATE INCREASE**

Comes now the Missouri Industrial Energy Consumers ("MIEC") and, pursuant to the Commission's November 12, 2009 *Order Modifying Procedural Schedule for Consideration of Interim Rate Tariff* in this case, files its Post Hearing Brief. The MIEC states as follows:

I. The PSC Has Consistently Held that Interim Rate Increases Should Only Be Granted Under Emergency or Near-Emergency Standards

1. As discussed extensively during the Evidentiary Hearing on December 7, 2009 (herein the "Hearing"), the Commission has consistently held that interim rate increases are granted under emergency or near-emergency conditions. *See Laclede Gas Co. v. Pub. Serv. Comm'n of Mo.*, 535 S.W.2d 561, 568 (Mo. Ct. App. 1976). Specifically, the Court stated that a majority of the Commission follows the principle that the purpose of a special hearing concerning interim rates is to "ascertain whether emergency conditions exist which call for especially speedy relief." *Id.* The Report and Order in the *Laclede Gas Co.* case expressed the view that an interim increase should be granted only "where a showing has been made that the rate of return being earned is so unreasonably low as to show such a deteriorating financial condition that would impair a utility's ability to render adequate service or render it unable to maintain its financial integrity." *Id.* at 568-69. Therefore, a utility must prove that the rate of return is so "unreasonably low" as to demonstrate an inability of a utility to render adequate service or to maintain its financial integrity.

2. Laclede did not reach this level of financial instability in that case. Laclede's president admitted in his testimony that if the interim relief was not granted, Laclede would not

become insolvent and would not reduce salaries or terminate personnel. The denial of interim relief would not affect the credit rating of Laclede's bonds. Significantly, Laclede would still be able to provide service to its customers and to pay dividends to its stockholders. *Id.* at 564. Similar to Laclede, as discussed herein, AmerenUE does not reach a rate of return that is "unreasonably low" to warrant interim rate relief.

3. In Laclede, the Missouri Court of Appeals stated that it is possible to grant interim rate relief on a non-emergency basis:

It may be theoretically possible even in a purposefully shortened interim rate hearing for the evidence to show beyond reasonable debate that the applicant's rate structure has become unjustly low, without any emergency as defined by the Commission having yet resulted. Although some future applicant on some extraordinary fact situation may be able to succeed in so providing, Laclede has singularly failed in this case to carry the very heavy burden of proof necessary to do so.

Id. at 574.

4. Historically, the Commission has found that the utility has to demonstrate an "emergency or near emergency situation" to grant an interim rate increase. *See, e.g., In the Matter of the Empire Dist. Elec. Co. of Joplin, Missouri*, 2002 Mo. PSC LEXIS 675, at *4, 7-8 (herein "Empire") (explaining that "Empire admits that its request does not meet the emergency standard of the Commission nor that its 'financial integrity or ability to render safe and adequate service over the next several months will be jeopardized if the request is not granted' "). The Commission has consistently denied interim rate increase proposals where financial circumstances do not reach an "emergency or near emergency situation". *See, e.g., Empire*, at *3, 6-7; In re Kansas City Power and Light Co., 1980 Mo. PSC LEXIS 45, at *10, 14 (holding that the company's "inflexible financial position, interest coverage problem and low rate of return entitle it to interim relief" and that the company's "present level of earnings impairs its continued financial integrity"); and In re Missouri Pub. Serv. Co., 1975 Mo. PSC LEXIS 15, at *14-18 (holding that the company's crisis is the result of the company's "inadequate load and revenue forecasting techniques" causing the company to

underbudget revenues and that the company had other sources of funds available to it if the interim rate relief was denied).

5. The Commission has held that in order to be eligible for interim rate relief, a utility must meet three criteria: (1) it needs the additional funds immediately; (2) that the need cannot be postponed; and (3) that no other alternatives exist to meet the need but rate relief. *See, e.g., Empire*, at *3; In the Matter of the Application of Citizens Elec. Cooperation for Approval of Interim Rates, 2001 Mo. PSC LEXIS 1817, at *8; and In re Missouri Pub. Serv. Co., 1975 Mo. PSC LEXIS 15, at *14. AmerenUE must meet these three requirements in order to succeed in its quest for interim rate relief. As discussed below, AmerenUE has failed to meet these established criteria for numerous reasons, especially since AmerenUE has failed to demonstrate that its interim rate relief meets the “emergency or near-emergency standard”.

II. Missouri’s Regulatory Procedures and Processes Do Not Create Excessive Regulatory Lag

A. AmerenUE Fails to Define “Excessive Regulatory Lag”

6. AmerenUE argues that it suffers from “excessive regulatory lag.” *See* Cross Examination of Warner Baxter, Tr. 333. However, at no point does AmerenUE define what constitutes “excessive regulatory lag.” The Commission cannot determine the level and impact of regulatory lag until all Missouri regulatory mechanisms are taken into account. Additionally, even where regulatory lag is determined, it can work to the benefit of the utility. Indeed, until just a few years ago, AmerenUE shareholders obtained great benefit from regulatory lag that allowed AmerenUE to realize more than its authorized return. (Ex. A, p. 12). Perhaps this is why AmerenUE fails to define “excessive” regulatory lag—it does not want to foreclose the opportunity to take advantage of regulatory lag in the future when the business climate is more favorable. AmerenUE has noted that utilities can and have benefitted from regulatory lag in the past. *Id.*

AmerenUE notes in its own testimony that the economy “exacerbates” the “effects” of regulatory lag on AmerenUE, but it does not cause regulatory lag. *See* Cross Examination of Baxter, Tr. 332-33. Ameren did not complain when regulatory lag allowed it to realize rate income in excess of its target rate of return. Despite asserting that it is “chronically” unable to come close to its authorized return, Ameren concedes that it only is looking at the past two years; if one examines the past two decades, AmerenUE’s assertion falls apart. *See* Cross Examination of Baxter, Tr. 331; *see also* (Ex. K, p. 8).

7. AmerenUE’s argument, in essence, is that “excessive regulatory lag” providing “good cause” for an interim rate increase can be found whenever the utility over some period of time fails reach its maximum authorized return. This argument ignores that the maximum return is a ceiling, not a guarantee. AmerenUE has stated unequivocally that it is financially to able to provide high-quality utility service and will continue to do so regardless of whether the Commission grants its interim rate request. *See* Re-Cross Examination of Baxter, Tr. 410. Consequently, AmerenUE has not demonstrated that it meets the emergency standard, a near-emergency standard, an “unjustly low rates” standard, a financial integrity standard or any other definition of “good cause” required for it to be granted an interim rate increase.

8. Mr. Baxter does not define “excessive” regulatory lag, but does enumerate three factors that he believes contribute to it: (1) setting rates based on historical cost; (2) Missouri’s eleven month suspension period for setting rates; and (3) inability to currently recover construction work in progress (CWIP) costs. *See* (Ex. A, pp. 16-17). However, the evidence does not support AmerenUE’s assertions regarding these enumerated factors. In Illinois, Ameren has the opportunity to elect to use either historical costs in a historical test year or a future test year based on forecasted costs. *See* (Ex. S, p. 3). However, Ameren Illinois consistently elects to use historical test years and historical costs to set rates. *Id.* at 3-4. Additionally, Illinois also has an eleven-month suspension

period, and Ameren has publicly stated that recent rate cases in both Missouri and Illinois have been “constructive.” *Id.* at 4. Finally, though it is true that Missouri utilities are not allowed to recover CWIP carrying costs currently, Missouri allows utilities to accrue Allowance for Funds Used During Construction carrying charges, and subsequently recover those costs after the asset is placed in service. *Id.* at 4-5 Two major construction projects in Missouri (Kansas City Power and Light Company and the Empire District Electric Company) were financed with regulatory plans that allowed for regulatory amortization that enhanced cash flows to support the utilities’ financial integrity and credit rating during construction. *Id.* All major stakeholders agreed to these plans, which were subsequently approved by the Commission. *Id.* Missouri regulatory procedures do provide for full recovery of all reasonable and prudent costs once an asset is placed in service. Thus the factors asserted by AmerenUE as contributing to “excessive” regulatory lag are either unfounded or misplaced.

9. In fact, some measure of regulatory lag benefits utility customers and shareholders by forcing utilities to decrease expenses. Utility management has the goal of maximizing profits to investors. To meet this goal during those periods in which regulatory lag does not benefit the utility, utility management has a strong incentive to aggressively manage costs to maximize profits to shareholders. Because utilities are regulated monopolies, regulatory lag is essential for the utility to have a strong incentive to control costs. *See* (Ex. Q, pp. 2-4). AmerenUE has stated that it does not aim to eliminate regulatory lag entirely, but rather to decrease what it deems to be “excessive” regulatory lag. AmerenUE has not defined “excessive regulatory lag,” and has not demonstrated how it would prevent inefficiency passed on to ratepayers in the absence of regulatory lag.

B. The PSC has Successfully Managed Regulatory Lag for Missouri Utilities, and a Change in the Interim Rate Increase Standard Is Not Justified

10. The PSC already has several regulatory tools to address short-term decreases in revenue caused by unforeseen current circumstances. Four such mechanisms include true-up audits,

deferred accounting requests, the fuel adjustment clause and the pension and other post-employment benefits (OPEB) tracking mechanism. Only after taking all of these mechanisms into account and measuring their net effects can the existence and degree of regulatory lag be determined.

11. True-up audits are key to ensuring that the revenue requirement components accurately reflect current conditions. As Mr. Trippensee notes in his rebuttal testimony:

“A primary tool to ensure the [revenue requirement component] relationship is reflective of current conditions is the true-up process which in this case is data as of January 31, 2010, less than 5 months prior to the operation of law date. My experience is that the true-up process normally addresses approximately 90% of the total costs involved in the revenue requirement. The costs not subject to the true-up process have not been found to experience significant fluctuations and thus do not impact the revenue/expense/investment relationship.

See (Ex. N, p. 11). Additionally, the eleven month process that Mr. Baxter cites as a causal factor of “excessive” regulatory lag is necessary to ensure a proper true-up with historical data. *See* (Ex. K (NP), p. 6). As Mr. Rackers notes, “[a]ny reduction in the current eleven month time frame would only serve to shorten the period that could be included in the true-up.” *Id.* Thus the true-up process in its current form will account for many of the costs cited by AmerenUE in its revenue shortfall, and will render any interim rate increase largely superfluous.

12. AmerenUE also has the ability to seek a deferred accounting request. This request would allow AmerenUE to “defer carrying charges and depreciation expense on new investments until those costs are ultimately considered for recovery in a rate case.” *See* (Ex. R, p. 2) (citing Ex. O). Provided that there is a legitimate reason for the deferral, this mechanism is already available to utilities in Missouri. *Id.* at 3. Consequently, if AmerenUE wants accounting relief, there is a mechanism in place to provide it.

13. To the extent that AmerenUE cannot manage its fuel price variability via contracts or other mechanisms, AmerenUE has the fuel adjustment clause (“FAC”) as a tool to provide

increased certainty. The fuel adjustment clause tracks fuel usage and use deferral accounts to allow utilities to recover their reasonable fuel costs over time. Though AmerenUE has claims a \$402 million revenue deficiency, roughly \$225 million of the amount it claims relates to fuel expenses, which will be recouped via the fuel adjustment clause at some point. *See* Cross Examination of Michael Gorman, Tr. 524-25. Thus a large portion of the revenue deficiency that AmerenUE claims is due to “excessive” regulatory lag will be recovered by AmerenUE by one of the regulatory mechanisms that Missouri employs for the purpose of dealing with such a shortfall.

14. Finally, the pension and OPEB tracking mechanism serves to minimize the ill effects to AmerenUE of any potential regulatory lag. Pension and OPEB expenses are generally included in Missouri utility rates. As the utility incurs more or less pension and OPEB expense than what is recovered in rates, it is included in the regulatory asset/liability account. The utility gains certainty that its pension and OPEB expense will be fully recovered, regardless of whether the level of pension and OPEB expenses were properly accounted for. *See* (Ex. Q, pp. 4-5). Thus the pension and OPEB tracking mechanism is yet another regulatory tool Missouri uses to combat any over-earnings or under-earning by utilities due to potential regulatory lag.

III. AmerenUE Has Not Demonstrated Financial Emergency, Lack of Financial Integrity, Unjustly Low Rates, or Any Standard of Good Cause for an Interim Rate Increase.

15. Mr. Baxter testified that AmerenUE is not in a state of financial emergency. “We’ve said that very clearly, that, you know, we’re not in dire emergency circumstances. But, nonetheless, that’s not a place that any of us wants to be, I’m sure, not just us, the Commission, but frankly all of our shareholders.” *See* Cross Examination of Baxter, Tr. 419-20 (emphasis added). Moreover, Mr. Baxter also indicated that if AmerenUE was not granted relief in its interim request, AmerenUE will still be able to provide safe and adequate service to its customers throughout the rest of the rate

case. *See* Cross Examination of Baxter, Tr. 410. By its own admission, AmerenUE can continue to provide high level service to its customers.

16. Ameren executives continue to achieve the financial targets and have recently been awarded large incentive compensation payments during the period for which it claims inadequate financial performance. Ameren has substantially increased its executive incentive compensation payments over the last three years – the period AmerenUE claims it was a victim of excessive regulatory lag.

17. Mr. Baxter testified that “Ameren’s executives’ incentive compensation is affected by our earnings per share as well as our overall return to shareholders.” *Id.* at 311. Tom Voss’ overall compensation increased from \$1.2 million in 2006 to \$1.8 million in 2008 — an increase of 50%. *Id.* at 312. Other executives saw their pay packages increase by roughly 33%. *Id.* at 313. Though these increases are not necessarily recovered in rates, they are taken out of the return to investors, which is one metric that AmerenUE claims has been declining. Additionally, if financial performance is one of the main considerations in setting executive incentive compensation, then an average increase of one-third over a two year period where AmerenUE claims that financial performance is trailing expectations appears to indicate the opposite. Any number of metrics demonstrate that AmerenUE’s financial situation is solid.

18. There are other indicators suggesting that AmerenUE is financially strong. S&P, in its August 27, 2009 research report, assigned AmerenUE a business risk profile of “excellent.” *See* Cross Examination of Lee Nickloy, Tr. 472. An excellent profile is the highest rating that S&P provides. Moreover, S&P assigned a business risk profile of “satisfactory” to Ameren Corp as a consolidated entity. *Id.* at 472-73.

A. AmerenUE's Bond Ratings Are Stable

19. Ameren continues to enjoy strong bond ratings and, thus, ready access to capital. AmerenUE's current bond ratings are "A3" (Moody's), "BBB" (Standard & Poor's), and "A" (Fitch). *See* Cross Examination of Gorman, Tr. 505; *see also* (Ex. Q, p. 9). The current bond rating outlook is stable. *Id.* These bond ratings are all high and stable, and strongly indicate that AmerenUE does, in fact, have ready access to capital. *Id.* In fact, Mr. Gorman testified that "AmerenUE has one of the strongest bond ratings of any Ameren affiliate, regulated affiliates in Illinois included." *See* Cross Examination of Gorman, Tr. 531. Additionally, Single A-rated utility bond yield is lower than it was during AmerenUE's last rate case. *See* Cross Examination of Gorman, Tr. 519. As Mr. Gorman notes, "Ameren's capital structure even with the equity infusion that took place at the end of September this year has a lower percentage of common equity than the capital structure used to set rates. That will lower its cost of capital." *Id.* Additionally, AmerenUE's common equity ratio has declined from 52% in the previous case to the 47.39% sought in the current case. *See* (Ex. Q, p. 8). The reduction in common equity ratio lowers AmerenUE's cost of capital. *Id.* This availability of capital offsets the proposed interim rate increase of \$37.3 million by \$24.8 million, or roughly two-thirds. *Id.* Consequently, AmerenUE has ready access to capital to combat any allegedly negative effects of regulatory lag, and does not require an interim rate increase.

20. These solid bond ratings indicate that there is less of an operating risk of AmerenUE relative to its affiliates. In fact, these bond ratings are strong indications that AmerenUE will be able to have a reasonable opportunity to fully recover investments and earn a profit because regulatory principles are not restricting it from earning a fair rate of return. *See* Gorman's Examination by Commissioner Gunn, Tr. 532-33.

B. AmerenUE's Access to Capital Markets Has Improved

21. Mr. Baxter admits in his testimony that AmerenUE has more access to capital markets than in late 2008:

Things have improved from my perspective. Are they good? No. Have they improved? Yes. They have done that. Are the capital markets more open than they were? Yes. Have we accessed the capital markets since that time? Yes. Is it more expensive? Yes. All those things.

See Baxter's Examination by Commissioner Jarrett, Tr. 383. Mr. Baxter also states that AmerenUE's access to credit markets was, in large part, limited by the global financial crisis as opposed to excessive regulatory lag. *See* Baxter's Examination by Commissioner Kenney, Tr. 390.

22. Additionally, AmerenUE has been able to issue stock in September of 2009. *See* Cross Examination of Gorman, Tr. 543-44. While the stock price may be less than desirable, it is an indicator that AmerenUE has access to capital.

23. AmerenUE's solid bond rating and access to capital markets at reduced cost show that its financial circumstances do not warrant rate relief by any standard.

C. AmerenUE's Cost of Borrowing Has Decreased

24. Mr. Gorman aptly summarizes AmerenUE's current costs of capital in his testimony: "Cost of capital has come down in this case relative to the last case. Single A rated utility bond yield in this case is lower than it was at the time of Ameren's last rate filing. Moody's has increased Ameren's senior secured bond rating in this case which would lower its cost of capital. Ameren's capital structure even with the equity infusion that took place at the end of September of this year has a lower percentage of common equity than the capital structure used to set rates. That will lower its cost of capital." *See* Cross Examination of Gorman, Tr. 519.

25. AmerenUE's current bond rating is stable, if not solid. Mr. Nickloy testified that when the investment community holds better financial perspectives of AmerenUE, then there are lower financing charges associated with these perspectives. *See* Cross Examination of Nickloy, Tr.

463. It stands to reason that if the bond ratings are higher, then AmerenUE has access to a lower cost of capital.

26. In summary, the evidence shows that AmerenUE has not demonstrated financial emergency or near-emergency, lack of financial integrity,, unjustly low rates or any other factor that could demonstrate “good cause” for interim rate relief. *See* Cross Examination of Baxter, Tr. 419-20.

IV. AmerenUE’s Interim Rate Increase is Derived on Non-Fuel Revenue Requirement Increase and Represents A Significant Amount of Its Claimed Total Non-Fuel Revenue Deficiency.

27. AmerenUE derived its proposed interim rate increase from the revenue requirement of the increase in its plant investment from October 2008 through May 2009. *See* Cross Examination of Weiss, Tr. 442. As Mr. Gorman discussed in his testimony, it is critical to separate AmerenUE’s claimed revenue deficiency into two components: (1) fuel costs; and (2) non-fuel costs. *See* Gorman Examination from Commissioner Davis, Tr. 524-26. AmerenUE is claiming a total of \$402 million in revenue deficiency, but approximately \$225 million relates to increases in fuel expenses and approximately \$175 million relates to non-fuel expenses. *Id.*

28. Further, of this non-fuel amount, approximately \$55 million relate to AmerenUE’s request for a higher return on equity and its proposed increased depreciation rates. *Id.* These are non-fuel costs increases that have never been approved by the Commission for the inclusion in rates or relate to expenses that are not yet in effect. Removing these requested cost increases from AmerenUE’s claimed non-fuel revenue deficiency, reduce the non-fuel claimed revenue deficiency to \$120 million. Hence, AmerenUE’s requested \$37 million interim rate increase is over 30% of its adjusted non-fuel revenue deficiency. But the record does not support a finding that AmerenUE has any non-fuel revenue deficiency.

A. The Non-Fuel Revenue Deficiency Claims Should be Disallowed

29. Mr. Gorman testified that he is not convinced that AmerenUE is experiencing any revenue deficiency if reviewing the numbers on a non-fuel basis. *See* Gorman Examination from Commissioner Davis, Tr. 526.

30. The Direct Testimony of Maurice Brubaker filed in this case on December 18 further demonstrates and confirms Mr. Gorman's testimony that the non-fuel related revenue requirement claims should be disallowed. *See* Brubaker Direct Testimony, p. 7, and Table MEB-RR-1. In his analysis, Mr. Brubaker identifies a total of \$228 million of non-fuel related revenue requirement claims (or \$217 million on a Missouri jurisdictional basis) should be disallowed on a company-wide basis. *See* Brubaker Direct Testimony, p. 7 (Item No. 225). Mr. Brubaker states that "[t]hese adjustments amount to more than all of AmerenUE's proposed \$175 million increase in non-fuel revenues." *Id.* Mr. Brubaker identified \$48.6 million of net fuel-related costs (or \$46 million on a Missouri jurisdictional basis) that are not reasonable to include in the re-basing of the fuel cost. *Id.*

B. The Fuel Cost Must be Excluded From the Determination of Whether an Interim Rate Increase is Needed and is Material

31. An interim rate increase for fuel related cost is not justified. AmerenUE will recover the fuel expense because of the FAC mechanism. Mr. Baxter recognizes that the FAC "substantially mitigates" regulatory lag. *See* (Ex. A, p. 11). Mr. Baxter also recognizes that AmerenUE will have the opportunity to obtain FAC increases outside of the permanent rate increase case. *See* Cross Examination of Baxter, Tr. 352. AmerenUE is attempting to recover the fuel expense earlier in time by incorporating it into the base rate; however, AmerenUE will still recover the fuel expense

through the FAC.¹ *See* Gorman Examination from Commissioner Davis, Tr. 526. AmerenUE is concerned that the fuel costs in some other states are recovered more quickly. However, even if this is the case, AmerenUE cannot deny that it will eventually recover the fuel costs under the FAC mechanism. Mr. Baxter attempts to justify the increase in the base rate by stating that AmerenUE merely passes through its costs with the FAC instead of receiving increasing earnings. *See* Baxter Examination by Commissioner Gunn, Tr. 357. AmerenUE still receives its fuel costs through the FAC mechanism even though it may receive these costs a few months later than it would prefer.

32. Therefore, AmerenUE's base rates are appropriate as AmerenUE will receive its fuel costs (totaling approximately \$225 million) through the FAC. In its interim rate increase, AmerenUE is asking for, in large part, fuel costs that it is already entitled to receive through the FAC mechanism. AmerenUE will be made whole through the FAC, and any attempts to recover additional moneys for fuel costs are unjust.

V. The Public Interest Requires the Commission to Balance Consumer Interests with AmerenUE's Desire for Increased Revenues

33. AmerenUE tries to downplay the severity of the proposed interim increase. According to the testimony, the average residential customer will pay approximately \$1.61 more per month if the full interim rate increase is implemented. *See* Cross Examination of Stephen Rackers, Tr. 599-600. Mr. Baxter indicates that the average residential customer bill will be \$1.00 to \$1.50 more per month. *See* Cross Examination of Baxter, Tr. 409-10. AmerenUE is asking for approximately \$175 million dollars for non-fuel costs, much less the \$225 million for fuel costs. The claimed increase for non-fuel costs alone is significant – it is approximately forty percent of the \$402

¹ As Commissioner Davis notes, the Missouri FAC requires AmerenUE to participate in a five percent sharing of fuel cost changes, which AmerenUE would forfeit if it did not file a rate case. *Id.* at p. 527; *see also* Baxter Direct Testimony, p. 11.

million requested. *See* Gorman Examination from Commissioner Davis, Tr. 524-526. Even if AmerenUE receives all of the fuel costs through the FAC mechanism, AmerenUE is still asking for a substantial rate increase for non-fuel costs.

34. While AmerenUE attempts to classify this refund as insignificant, the testimony of Mr. Rackers shows otherwise: “Mr. Baxter assumes that the ratepayers cost of capital is equal to or less than the short-term interest rate. This may or may not be true. If the customer must forgo paying a credit card bill that charges a higher interest rate than UE’s short-term debt rate in order pay for the interim rate increase, the customer will be harmed if the Company has to refund any portion of the interim rate increase.” *See* (Ex. K (NP), p. 11). As discussed during Mr. Rackers’ testimony, if a rate payer is ten dollars behind on rent payments in December, it does not help the rate payer to receive twelve dollars back the following June from AmerenUE. *See* Rackers Examination by Commissioner Gunn, Tr. 601. Contrary to AmerenUE’s assertions, ratepayers will be significantly and adversely impacted by AmerenUE’s interim rate increase.

35. As Mr. Baxter recognizes, we are in the midst of one of the worst economic periods our country has ever experienced. Baxter Examination by Commissioner Jarrett, Tr. 381-82; *see also* (Ex. A, p. 10). In this time of economic crisis, AmerenUE wants to change the regulatory process to enable AmerenUE to raise rates at any time it desires without the consideration of all relevant factors that can only be addressed in a full rate review. Yet Mr. Baxter acknowledges that the impact of the proposed interim rate relief on consumers is a relevant factor that the PSC should consider in this case. *See* Cross Examination of Baxter, Tr. 410. AmerenUE emphasizes its reduced profits, but fails to give adequate recognition to the impact this interim rate increase will have on its customer base and on Missouri’s economy.

36. The PSC’s duty is to ensure rates are just and reasonable. We are currently faced with one of the most depressed economies in Missouri’s history. Preserving the economic health of the

customers served by AmerenUE not only helps to develop Missouri's economy, but also provides a future financial support base. *See, e.g.,* (Ex. Q, p. 10). AmerenUE's proposal would erode a "robust industrial base" in the AmerenUE service territory, especially since there is a strong need for stable, competitive, and predictable utility pricing. *See* (Ex. S, p. 5). If customers are forced to pay too much now, AmerenUE will be unable to go back to its customers in the future to pay for the monthly utility rates, much less any rate increases. Moreover, new businesses will be discouraged from entering the Missouri market, especially if the utilities are left unregulated to raise interim rates. *See* Cross Examination of Gorman, Tr. 538.

37. Missouri regulation is designed to protect both the utility's investors and its customers. Mr. Trippensee correctly characterizes AmerenUE's strategy in this proceeding: "The focus of AmerenUE's testimony is to isolate components of the revenue requirement determination that if recognized will result in rate increases without consideration of all relevant factors that should be used [for] revenue requirement determination. The testimony focus has only one beneficiary, the stockholder via increased earnings, and is in direct conflict with the underlying principles of regulation." *See* (Ex. N, p. 4).

38. Rate policy should not favor the utilities from receiving more money at the expense of the ratepayers. AmerenUE's interim rate proposal would not result in just and reasonable rates, because it precludes consideration of all relevant factors and because AmerenUE has not demonstrated good cause for the Commission to depart from consideration of all relevant factors. AmerenUE's proposal lacks evidentiary support, and fails to meet any legal standard set forth by the Commission or the Courts for "good cause." AmerenUE's proposal undermines the essential balance between utilities and ratepayers, which the Commission must guard with greater care than ever during Missouri's current economic crisis.

WHEREFORE, for the foregoing reasons, the MIEC requests that the Commission deny AmerenUE's Request for an Interim Rate Tariff.

Dated: December 21, 2009.

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 hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 21st day of December, 2009, to all parties on the Commission's service list in this case.

/s/ Diana Vuylsteke