

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

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|--|---|-------------------------------------|
| In the Matter of Union Electric Company |) | |
| d/b/a Ameren Missouri's Tariffs to |) | <u>Case No. ER-2012-0166</u> |
| Increase Its Revenues for Electric Service |) | |

APPLICATION FOR REHEARING

COMES NOW the Office of the Public Counsel and for its Application for Rehearing states as follows:

1. On December 12, 2012, the Commission issued its Report and Order with an effective date of December 22, 2012. The Report and Order is unjust, unreasonable, arbitrary and capricious, and unlawful for the following reasons.

2. The Commission erred by permitting Union Electric Company d/b/a Ameren Missouri to flow Midwest Independent System Operator (MISO) transmission charges, which include charges reflecting various costs of building transmission facilities that are not used and useful at the time of flow-through, through the Fuel Adjustment Clause (FAC). The MISO charges include costs associated with electric plant that will not have been placed in service at the time the charges flow through the FAC in violation of Section 393.135 RSMo 2000. The MISO charges are not allowed in the FAC pursuant to Section 386.266.1, RSMo 2000 because they are not "prudently incurred fuel and purchased-power costs, including transportation."

3. The Commission erred in not addressing the sworn and competent testimony adduced at the local public hearings. Nowhere in the Report and Order does the Commission find the testimony of any witness at the local public hearings to be not credible and the witnesses were not impeached, but yet the Report and Order fails to take any of that testimony into

account. It also failed to address the testimony of Public Counsel witness Barbara Meisenheimer, who was the only witness in the case that proposed a way of addressing the testimony adduced at the public hearings. Ms. Meisenheimer testified that the way to address the testimony taken at local public hearings would have been to adopt a return on equity at the bottom end of the range that the Commission found reasonable. The Commission ignored that proposal and ignored the testimony of dozens of witnesses. An administrative tribunal may not arbitrarily disregard or ignore undisputed testimony of a witness not shown to have been impeached or disbelieved by the administrative tribunal.¹

WHEREFORE Public Counsel respectfully requests that the Commission grant rehearing of its December 12, 2012 Report and Order.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Lewis R. Mills, Jr.

By: _____
Lewis R. Mills, Jr. (#35275)
Public Counsel
P O Box 2230
Jefferson City, MO 65102
(573) 751-1304
(573) 751-5562 FAX
lewis.mills@ded.mo.gov

¹ Mo. Church of Scientology v. State Tax Comm., 560 S.W.2d 837, 843 (Mo. banc 1977).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to all parties this 21st day of December 2012.

Office of the Public Counsel

Lewis Mills
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opcservice@ded.mo.gov

Missouri Public Service Commission

Kevin Thompson
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
Kevin.Thompson@psc.mo.gov

Missouri Public Service Commission

Office General Counsel
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
GenCounsel@psc.mo.gov

Missouri Retailers Association

Thomas R Schwarz
308 E High Street, Ste. 301
Jefferson City, MO 65101
tschwarz@blitzbardgett.com

Natural Resources Defense Council

Henry B Robertson
705 Olive Street, Suite 614
St. Louis, MO 63101
hrobertson@greatriverslaw.org

Renew Missouri

Henry B Robertson
705 Olive Street, Suite 614
St. Louis, MO 63101
hrobertson@greatriverslaw.org

Sierra Club

Henry B Robertson
705 Olive Street, Suite 614
St. Louis, MO 63101
hrobertson@greatriverslaw.org

Union Electric Company

Russ Mitten
312 E. Capitol Ave
P.O. Box 456
Jefferson City, MO 65102
rmitten@brydonlaw.com

Union Electric Company

Eric E Dearmont
1901 Chouteau Ave.
St. Louis, MO 63166-6149
edearmont@ameren.com

Union Electric Company

James B Lowery
111 South Ninth St., Suite 200
P.O. Box 918
Columbia, MO 65205-0918
lowery@smithlewis.com

Union Electric Company
Michael R Tripp
111 S. 9th Street
P.O. Box 918
Columbia, MO 65205-0918
tripp@smithlewis.com

Union Electric Company
Wendy Tatro
1901 Chouteau Avenue
St. Louis, MO 63166-6149
AmerenMOService@ameren.com

Barnes-Jewish Hospital
Lisa C Langeneckert
600 Washington Avenue, 15th Floor
St. Louis, MO 63101-1313
llangeneckert@sandbergphoenix.com

IBEW Local Union 1439
Sherrie A Schroder
7730 Carondelet Ave., Ste 200
St. Louis, MO 63105
saschroder@hammondshinners.com

IBEW Local Union 1455
Sherrie A Schroder
7730 Carondelet Ave., Ste 200
St. Louis, MO 63105
saschroder@hammondshinners.com

IBEW Local Union 2
Sherrie A Schroder
7730 Carondelet Ave., Ste 200
St. Louis, MO 63105
saschroder@hammondshinners.com

IBEW Local Union 309
Sherrie A Schroder
7730 Carondelet Ave., Ste 200
St. Louis, MO 63105
saschroder@hammondshinners.com

Union Electric Company
Thomas M Byrne
1901 Chouteau Avenue
P.O. Box 66149 (MC 1310)
St. Louis, MO 63166-6149
AmerenMOService@ameren.com

AARP
John B Coffman
871 Tuxedo Blvd.
St. Louis, MO 63119-2044
john@johncoffman.net

Consumers Council of Missouri
John B Coffman
871 Tuxedo Blvd.
St. Louis, MO 63119-2044
john@johncoffman.net

IBEW Local Union 1439
Michael A Evans
7730 Carondelet, Suite 200
St. Louis, MO 63105
mevans@hammondshinners.com

IBEW Local Union 1455
Michael A Evans
7730 Carondelet, Suite 200
St. Louis, MO 63105
mevans@hammondshinners.com

IBEW Local Union 2
Michael A Evans
7730 Carondelet, Suite 200
St. Louis, MO 63105
mevans@hammondshinners.com

IBEW Local Union 309
Michael A Evans
7730 Carondelet, Suite 200
St. Louis, MO 63105
mevans@hammondshinners.com

IBEW Local Union 649

Sherrie A Schroder
7730 Carondelet Ave., Ste 200
St. Louis, MO 63105
saschroder@hammondshinners.com

IBEW Local Union 649

Michael A Evans
7730 Carondelet, Suite 200
St. Louis, MO 63105
mevans@hammondshinners.com

IBEW Local Union 702

Sherrie A Schroder
7730 Carondelet Ave., Ste 200
St. Louis, MO 63105
saschroder@hammondshinners.com

IBEW Local Union 702

Michael A Evans
7730 Carondelet, Suite 200
St. Louis, MO 63105
mevans@hammondshinners.com

International Union of Operating Engineers-Local No 148

Sherrie A Schroder
7730 Carondelet Ave., Ste 200
St. Louis, MO 63105
saschroder@hammondshinners.com

International Union of Operating Engineers-Local No 148

Michael A Evans
7730 Carondelet, Suite 200
St. Louis, MO 63105
mevans@hammondshinners.com

Kansas City Power & Light Company

James M Fischer
101 Madison Street, Suite 400
Jefferson City, MO 35101
jfisherpc@aol.com

Kansas City Power & Light Company

Roger W Steiner
1200 Main Street, 16th Floor
P.O. Box 418679
Kansas City, MO 64105-9679
roger.steiner@kcpl.com

KCP&L Greater Missouri Operations Company

James M Fischer
101 Madison Street, Suite 400
Jefferson City, MO 35101
jfisherpc@aol.com

KCP&L Greater Missouri Operations Company

Roger W Steiner
1200 Main Street, 16th Floor
P.O. Box 418679
Kansas City, MO 64105-9679
roger.steiner@kcpl.com

Midwest Energy Consumers Group

David Woodsmall
807 Winston Court
Jefferson City, MO 65101
david.woodsmall@woodsmalllaw.com

Missouri Department of Natural Resources

Jennifer S Frazier
221 West High Street
P.O. Box 899
Jefferson City, MO 65102
jenny.frazier@ago.mo.gov

Missouri Department of Natural Resources

Mary Ann Young
Lewis & Clark State Office Building, 4E
1101 Riverside Dr., 4th Fl. East, Rm. 456
Jefferson City, MO 65109-0176
maryann.young@dnr.mo.gov

Missouri Industrial Energy Consumers (MIEC)

Edward F Downey
221 Bolivar Street, Suite 101
Jefferson City, MO 65101
efdowney@bryancave.com

**Missouri Industrial Energy Consumers
(MIEC)**

Diana M Vuylsteke
211 N. Broadway, Suite 3600
St. Louis, MO 63102
dmvuylsteke@bryancave.com

By: /s/Lewis R. Mills, Jr.