



Martha S. Hogerty  
Public Counsel

State of Missouri

Mel Carnahan  
Governor

**Office of the Public Counsel**  
Harry S Truman Building  
Suite - 250  
P.O. Box 7800  
Jefferson City, Missouri 65102

Telephone: 573-751-4857  
Facsimile: 573-751-5562  
Relay Missouri  
1-800-735-2966 TDD  
1-800-735-2466 Voice

July 9, 1999

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO 65102

FILED

JUL 9 1999

Missouri Public  
Service Commission

**RE: In the matter of 4 CSR 240-20.015 Proposed Rule -  
Electric Utilities Affiliate Transactions, Case No. EX-99-442**

Dear Mr. Roberts:

Enclosed for filing in the above referenced case, please find the original and 14 copies of Public Counsel's **Motion to Compel Data Requests Submitted to AmerenUE**. Please "file stamp" the extra enclosed copy and return it to this office. I have on this date mailed, faxed, or hand-delivered the appropriate number of copies to all counsel of record.

Thank you for your attention to this matter.

Sincerely,

John B. Coffman  
Deputy Public Counsel

JBC:kh

cc: Lera L. Shemwell, Assistant General Counsel  
William J. Niehoff, Ameren Services Company  
Enclosure

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

**FILED**

JUL 9 1999

In the matter of 4 CSR 240-20.015 proposed )  
Rule - electric utilities affiliate transactions. )

Missouri Public  
Service Commission  
Case No. EX-99-442

**MOTION TO COMPEL DATA REQUESTS**  
**SUBMITTED TO AMERENUE**

COMES NOW the Office of the Public Counsel (Public Counsel), pursuant to Section 386.450 RSMo. 1994, and for its Motion to Compel states as follows:

1. On June 4, 1999, Public Counsel propounded a series of sixteen data requests to each regulated electric utility in Missouri as part of its discovery and research into the subject matter of the Public Service Commission's (Commission's) proposed affiliated transaction rule in this case. (The text of these data requests, numbered 501 through 516, is provided on Attachment 1 to this Motion.) In general, the data requests at issue in this Motion were designed to allow Public Counsel to illustrate to the Commission the current trend of diversification by utility companies and examples of the type of affiliate transactions that could affect regulated ratepayers and the public interest in Missouri. It was hoped that these data requests were to provide Public Counsel with enough information that its initial and reply comments might include specific examples of current activity that should be covered by an affiliated transaction rule.

2. On June 25, 1999, the Commission issued its Order Adopting Protective Order, which provided protection for highly confidential materials and procedures by which this information may be reviewed by the Commission for purposes of this case, and further acknowledged Public Counsel's discovery powers in this matter, stating "Data requests are

allowed to be filed by OPC in a rulemaking even though there is no contested proceeding or case *per se.*”

3. On June 14, 1999, AmerenUE submitted a letter stating three general objections. AmerenUE claims that the subject matter of these data requests are not within the Commission’s jurisdiction. Public Counsel believes that these data requests are indeed within the Commission’s jurisdiction and specifically tailored to the subject of the Commission’s proposed affiliated transaction rule.

AmerenUE’s second objection raises attorney client privilege and the work product doctrine as issues “to the extent” applicable, however it is not clear to what information or data request this objection may apply.

AmerenUE’s third general objection refers to the lack of an appropriate protective order. The Commission has subsequently resolved this objection with its June 25, 1999 Order.

4. Public Counsel is still awaiting a complete response to Data Requests 507, 508, and 511. Public Counsel and AmerenUE have thus far been unsuccessful in good-faith attempts to resolve this discovery matter. In view of the pending deadline for reply comments (August 1, 1999), Public Counsel believes that it would be in the public interest to expedite the resolution of this discovery dispute, so that the production of any information to be compelled could be reviewed in a sufficient time prior to the reply comment deadline.

WHEREFORE, Public Counsel respectfully requests that, pursuant to Commission rule 4 CSR 240-2.090, and Civil Rule 56, the Commission issue an order compelling AmerenUE to answer Data Requests 507, 508 and 511, along with any other relief deemed just and reasonable.

Respectfully submitted,

**OFFICE OF THE PUBLIC COUNSEL**

BY: 

John B. Coffman (Bar No. 36591)  
Senior Public Counsel  
P. O. Box 7800, Suite 250  
Jefferson City, MO 65102-0250  
Telephone: (573) 751-5565  
Facsimile: (573) 751-5562

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document has been either faxed, mailed, or hand-delivered to the following counsel of record on this 9th day of July, 1999:

William J. Niehoff  
Ameren Services Company  
One Ameren Plaza  
1901 Chouteau Avenue  
St. Louis, Missouri 63166-6149

Lera L. Shemwell  
Assistant General Counsel  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, Missouri 65102



- 501 Please provide copies of the Company's two most recent annual reports.
- 502 Does the Company use the monthly bill that is sent to its customers to bill some of these same customers for unregulated products and services that are provided by the Company or its affiliates? If yes, please: (1) list and describe each of the unregulated products and services that are (or have been) included in the charges on monthly utility bills for some customers and (2) describe procedures that the Company has in place to allocate a portion of utility billing costs to the Company's unregulated operations.
- 503 Does the Company use the monthly bill that is sent to its customers to promote/inform some of these same customers about unregulated products and services that are provided by the Company or its affiliates? If yes, please: (1) list and describe each of the unregulated products and services that are (or have been) promoted on monthly utility bills for some customers within the last three years and (2) describe procedures that the Company has in place to allocate a portion of utility billing costs to the Company's unregulated operations.
- 504 Does the Company make customer lists or other customer specific information available to its unregulated operations that are selling unregulated products and services? If yes, please describe each of the unregulated operations to which customer lists and other customer specific information have been made available over the last three years and provide a complete description of the customer information that has been made available to each unregulated operation.
- 505 Does the Company's regulated operation solicit business for or make leads available to its unregulated operations that are selling unregulated products and services? If yes, please describe each of the unregulated operations for which the Company's regulated operations have solicited business or made leads available over the last three years and provide a complete description of the business leads provided and business solicitation that has occurred over the last three years.
- 506 Does the Company promote or inform its customers about unregulated products and services that are provided by the Company or its affiliates at the time when new customers sign up for utility service with the Company? If yes, please: (1) list and describe each of the unregulated products and services that are (or have been) promoted in this manner and (2) describe procedures that the Company has in place to allocate a portion of utility "sign up" costs to the Company's unregulated operations.
- 507 Please provide a copy of the Company's two most recent strategic plans (business

plans) for its (1) overall regulated and (2) overall non-regulated electric operations. If the Company does not possess or have access to some of the documents within the scope of those requested in this DR, please identify which of the requested documents that the Company does not possess or have access to.

- 508 Please provide a copy of the Company's most recent strategic plans (business plans) for each of its unregulated business units and affiliates. If the Company does not possess or have access to documents within the scope of those requested in this DR, please provide a statement to that effect..
- 509 Does the Company ever receive compensation for providing leads to its unregulated affiliates or to partners in joint ventures, strategic alliances, or joint marketing? If yes, please provide a copy of the contracts or agreements that provide for this compensation and provide a copy of all documents created in the last three years that contain summaries or analysis of the level of compensation that has been provided.
- 510 Does the Company ever receive compensation for allowing its unregulated affiliates or partners in joint ventures, strategic alliances, or joint marketing to use the Company's name or logo? If yes, please provide a copy of the contracts or agreements that provide for this compensation and provide a copy of all documents created in the last three years that contain summaries or analysis of the level of compensation that has been provided.
- 511 Please provide a list of all entities with which the Company or its affiliated entities have entered into partnership, joint venture, strategic alliance, or joint marketing agreements within the last three years and provide a copy of all such contracts or agreements that have been entered into within the last three years. For purposes of this DR, the term "affiliated entities" should be interpreted to have the same meaning that it has in the proposed affiliate transactions rule. If the Company or its affiliated entities have NOT entered into any partnership, joint venture, strategic alliance, or joint marketing agreements within the last three years, please provide a statement to that effect.
- 512 Please provide a list of the Company's top ten (by amount of regulated revenues or however the Company classifies these customers) customers. Also, please provide a copy of all contracts, agreements, or letters of intent that the Company has entered into over the last three years with its top ten customers for nonregulated products or services.
- 513 Please provide an organizational chart that shows the relationships between the

Company and all of its affiliated entities. For purposes of this DR, the term “affiliated entities” should be interpreted to have the same meaning that it has in the proposed affiliate transactions rule. If the Company does not have any affiliates, please provide a statement to that effect.

- 514 Please provide a copy of all documents created by or for the Company within the last five years that contain policies or guidelines for selling or leasing dark fiber that has been installed as part of the Company’s internal communications network. If no such documents exist, please provide a statement to that effect.
- 515 Please provide a list of all affiliated entities and other non-affiliated entities to whom the Company has sold or leased or otherwise allowed use of dark fiber that has been installed as part of the Company’s internal communications network. Also, please provide a copy of all documents created by or for the Company within the last three years that contain summaries or analysis of the amount of revenues that the Company has received for the sale or lease of dark fiber that has been installed as part of the Company’s internal communications network. If the Company has NOT sold or leased or otherwise allowed use of dark fiber that has been installed as part of the Company’s internal communications network, please provide a statement to that effect.
- 516 Please provide a copy of all comments, affidavits, testimony, and briefs that the Company or its affiliates have filed in affiliated transaction cases or rulemakings or similar proceedings in other jurisdictions. If no such filings have been made by the Company or its affiliates, please provide a statement to that effect.

Ameren Services

One Ameren Plaza  
1901 Chouteau Avenue  
PO Box 68149  
St. Louis, MO 63166-6149  
314.621.3222

(314) 554-2514  
(314) 554-4014

June 14, 1999

**VIA FACSIMILE AND  
FIRST CLASS MAIL**



Mr. John B. Coffman  
Office of the Public Counsel  
Harry S Truman Bldg. Ste. 250  
P.O. Box 7800  
Jefferson City, MO 65102

Re: Objections to Data Requests Dated June 4, 1999  
Case No. EX-99-442

Dear Mr. Coffman:

This is in response to Public Counsel Data Requests Nos. 501 – 516 sent by letter dated June 4, 1999. Union Electric Company (d/b/a "AmerenUE") is willing to cooperate in providing responses to the discovery but must note the existence of several open issues. First, we are unsure of the authority for discovery in the context of a rulemaking unless this would be considered a contested case. Second, assuming discovery is appropriate in this matter, it would be limited to a party to the action. A number of the requests appear directed exclusively to non-regulated affiliates which are non-parties and which are not subject to the jurisdiction of the Commission. Accordingly, AmerenUE and other system companies reserve all substantive and procedural rights in connection with the voluntary production of information.

General Objections

1. AmerenUE objects to the data requests, and as more specifically set forth below, to the extent that these seek information held by companies not subject to the jurisdiction of the Missouri Public Service Commission.
2. AmerenUE objects to the data requests to the extent that these seek information protected from disclosure by the attorney – client privilege, the work product doctrine or both.

Attachment 2

3. AmerenUE objects to the disclosure of highly confidential and/or proprietary information without the existence of an appropriate protective order.

Specific Objections

DR 501: No present objection.

DR 502: No present objection.

DR 503: No present objection.

DR 504: No present objection.

DR 505: No present objection.

DR 506: No present objection.

DR 507: AmerenUE objects to this data request on the basis that it seeks information which is neither relevant nor which could lead to the discovery of relevant evidence. Further, the request seeks production of information which is beyond the scope of this proceeding and the jurisdiction of the Commission. Subject to the above and without waiving the same, AmerenUE states that its investigation for information continues and it will produce otherwise responsive documents, subject to an appropriate protective order.

DR 508: AmerenUE objects to this data request on the basis that it seeks information which is neither relevant nor which could lead to the discovery of relevant evidence. Further, the request seeks production of information which is beyond the scope of this proceeding and the jurisdiction of the Commission.

DR 509: AmerenUE's investigation continues as to whether responsive material exists. Subject to the above, AmerenUE objects to production of the requested information unless there is in place an appropriate protective order.

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DR 512: AmerenUE's investigation continues as to whether responsive material exists. Subject to the above, AmerenUE objects to production of the requested information unless there is in place an appropriate protective order.

DR 513: No present objection.

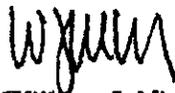
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DR 515: AmerenUE's investigation continues as to whether responsive material exists. Subject to the above, AmerenUE objects to production of the requested information unless there is in place an appropriate protective order.

DR 516: No present objection.

We shall be providing information to which no objection has been lodged as it is collected. Please feel free to call me if you would like to discuss the status of the data request responses or the objections set forth above. Thank you.

Sincerely,



William J. Niehoff  
Attorney-at-Law