

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

In the Matter of Union Electric Company)	
d/b/a AmerenUE for Authority to File)	
Tariffs Increasing Rates for Electric)	Case No. ER-2010-0036
Service Provided to Customers in the)	
Company's Missouri Service Area.)	

**OPPOSITION TO MOTION TO STRIKE THE DIRECT TESTIMONY OF
UNION WITNESS MICHAEL WALTER OR, IN THE ALTERNATIVE,
PORTIONS THEREOF**

COME NOW International Brotherhood of Electrical Workers Locals 2, 309, 649, 702, 1439, 1455, AFL-CIO and International Union of Operating Engineers Local 148, AFL-CIO ("Unions"), by counsel, and in opposition to the motion of Union Electric Company d/b/a AmerenUE ("Ameren" or the "Company") to strike the testimony submitted by union witness Michael Walter state:

1. The Unions filed the testimony of Michael Walter on February 11, 2010, timely serving copies of that testimony on all of the parties, including Ameren. The Unions inadvertently labeled this testimony "direct," rather than "rebuttal." Mr. Walter's testimony is the only testimony filed by the Unions. Commission Rule 4 CSR 240-2.130(7)(B) clearly states, in relevant part, that "A party need not file direct testimony to be able to file rebuttal testimony."

2. The testimony was properly filed as rebuttal because it offers reasons in support of Ameren's petition for a rate increase in rebuttal to most of the non-Ameren parties, as well as raises considerations in rebuttal to Ameren's request for an unfettered increase.

3. Missouri Public Service Commission Practice and Procedure regulation 4 CSR 240-2.080(15) requires that "Parties shall be allowed not more than ten (10) days

from the date of filing in which to respond to any pleading unless otherwise ordered by the commission.”

3. Ameren did not file its motion to strike until March 3, 2010, twenty days after the union testimony was filed. Ameren did not offer any justification for its delayed filing. Accordingly, Ameren’s motion should be denied as untimely.

4. Ameren attacks the recommendations section of the union testimony as being “wholly irrelevant and immaterial to the issues in this rate case proceeding, and [] beyond the statutory authority and jurisdiction of the Commission to adopt.” (Motion to Strike at 2, para.5) Conversely, the recommendations are both relevant and material and within the statutory authority and jurisdiction of the Commission.

5. In a rate case, the Commission has the authority and responsibility to evaluate whether the utility is likely to provide safe and adequate service and whether it can do so while charging the customer a lesser rate than requested. The recommendations of the union witness, Michael Walter, are directed expressly at “efficiency and quality of service” (*see* Testimony, p. 7, line 11) and “safe, reliable service” (*see* Testimony, p. 7, line 17 and p. 8, line 23), and “long-term quality” (*see* Testimony, p. 7, line 18). The recommendations further address the rate issue at p. 7, l. 17; p. 8, ll. 5-6, 9-10 and 23; and p. 9, l. 1. These recommendations are therefore clearly relevant and material to the issues of whether Ameren provides safe and adequate service and provides it efficiently.

6. The Unions believe that Ameren is also mistaken about the extent of the Commission’s authority. As the Commission has noted, its powers of regulation are comprehensive. One such power is to determine how much money to give to a utility

through a rate case proceeding, including that they balance the utility's need and desire for money with the customers' need and desire for efficiency of that service. Another is to issue orders ensuring that service be safe and adequate. The Unions are conditionally *recommending* a rate increase for Ameren. The conditions they have placed on their recommendation fit squarely within the above-referenced powers of the Commission, i.e., that Ameren be required to provide its service more efficiently through the means outlined, and that those same means be employed to ensure that the service provided is safer and more reliable. Thus, the Commission has the authority to place such restrictions on its approval of a rate increase.

WHEREFORE, the Unions respectfully ask the Commission to deny Ameren's motion to strike all or part of the Testimony of Michael Walter.

Respectfully submitted,

/s/ Sherrie A. Schroder

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Certificate of Service

The undersigned certifies that a true and correct copy of the foregoing was served on March 11, 2010, by United States mail, hand-delivery, email, or facsimile upon all parties by their attorneys of record as disclosed by the pleadings and orders herein.

/s/ Sherrie A. Schroder