Missouri Public Service Commission

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September 28, 2001

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

RE: Case No. EC-2002-1

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of **STAFF RESPONSE TO THE OFFICE OF THE PUBLIC COUNSEL'S REQUEST FOR ORDER SETTING EVIDENTIARY HEARING.**

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Steven Dottheim
Chief Deputy General Counsel
(573) 751-7489
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SD:ccl
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED[3]
SEP 2 8 2001
Missouri Public Service Commission

Staff of the Missouri Public Service Commission	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. EC-2002-1
	)	
Union Electric Company, d/b/a AmerenUE,	)	
	)	
Respondent.	)	

STAFF RESPONSE TO THE OFFICE OF THE PUBLIC COUNSEL'S REQUEST FOR ORDER SETTING EVIDENTIARY HEARING

Comes now the Staff of the Missouri Public Service Commission (Staff) in response to the Office of the Public Counsel's Request For Order Setting Evidentiary Hearing.[1] In Response to the Public Counsel's Request, the Staff suggests to the Commission that the Commission issue an Order setting (1) an intervention period and (2) a prehearing conference for the purpose of setting a procedural schedule and test year. In support thereof, the Staff states as follows:

1. On July 2, 2001 the Staff filed an excessive rates complaint case against Union Electric Company, d/b/a AmerenUE. The Staff's direct case as filed on July 2, 2001, showed that UE's rates and charges are not just and reasonable as required by Chapters 386 and 393, but instead are excessive in a range of from $213,774,613 at the high end of the Staff's return on common equity (ROE) range to $250,071,725 at the low end of the Staff's ROE range.

[1] The Staff would note that prior to Public Counsel filing its Request For Order Setting Evidentiary Hearing on September 27, 2001, the Staff on September 25, 2001 indicated to AmerenUE that the Staff would file with the Commission before the week was out a pleading requesting the setting of an intervention period and an a prehearing conference for the purpose of the parties proposing a procedural schedule.

Staff Direct Case Filing	Range	
	Staff ROE & Revenue Req.	Staff ROE & Revenue Req.
7/02/01	9.04% -$250,071,725	10.04% -$213,774,613

2. The Staff proposed a procedural schedule and test year at the time of the filing of its complaint. AmerenUE on July 10, 2001 filed a response in opposition to the Staff's proposed procedural schedule. The Staff submitted a reply on July 20, 2001, AmerenUE answered on July 27, 2001 and the Staff responded on August 6, 2001. The procedural schedule proposed by the Staff on July 2, 2001 is no longer feasible. The Staff hereby submits a new proposal for a procedural schedule. Certain dates suggested by AmerenUE in its July 10, 2001 proposal for a procedural schedule, although not appropriate when first proposed, have become appropriate with the passage of time.[2] Nonetheless, there are still elements of AmerenUE's proposal with which the Staff disagrees. The Staff continues to believe that AmerenUE's proposal that Public Counsel and intervenors be placed on a separate schedule for the filing of rebuttal testimony and schedules is inappropriate and will accomplish nothing more than make the proceeding more protracted than it has already become.

3. The Staff understands that there is no operation-of-law date respecting Case No. EC-2002-1 and the Commission's schedule is extremely busy with many very significant matters affecting public utility customers throughout the State of Missouri. Nonetheless, as noted previously by the Staff, every day of unnecessary delay in implementing an appropriate rate reduction costs the customers of AmerenUE up to $685,000 ($250,071,725 / 365 days) for that single day of unnecessary delay. Furthermore, the longer the Commission waits to address the matter of a procedural schedule, the greater the likelihood that AmerenUE will contend that the

[2] The dates proposed by the Staff are not necessarily identical to certain dates proposed by AmerenUE on July 10, 2001 because it would appear that for dates in 2002, AmerenUE was actually looking at a 2001 calendar.

unduly long schedule which it proposed on July 10, 2001 is now no longer appropriate because of the passage of time.

4. The Staff's complaint case is based on a test year of the 12 months ending June 30, 2001. The Staff proposes that the Commission adopt the 12 months ending June 30, 2001 as the test year in this proceeding. The Commission's adoption of the 12 months ending June 30, 2001 as the test year in this proceeding would not preclude any party from proposing an adjustment to the test year. By adopting the Staff's proposed test year, all parties would have a common starting point for revenue requirement and other determinations. A common test year is also necessary in order for the complaint case to be heard on an issue-by-issue basis, as is done with rate increase cases, and for the parties to submit to the Commission a reconciliation of the dollar value of each of the issues.

5. In order for the Commission to process the Staff's complaint on a timely basis from this point forward, the Staff recommends that the Commission set an intervention period and schedule an early prehearing conference for a date shortly after the close of the intervention period for the purpose of the parties attempting to reach agreement on a procedural schedule and test year. Even though the Staff is now suggesting certain dates identical to AmerenUE's proposal, there are still significant differences between the Staff and AmerenUE such that the Staff recommends that the Commission direct the parties to report to the Commission in writing by 4:00 p.m. the day after the early prehearing conference regarding whether the parties have been able to reach agreement on a procedural schedule and test year. The Staff notes below the dates of events that have already occurred and recommends to the Commission dates for certain remaining necessary events:

Event	Proposed Date
Staff Filed Complaint, Direct Testimony & Schedules and Motion For A Protective Order	07/02/01
Secretary Served A Copy Of Complaint Upon UE	07/10/01
UE Answered Complaint	08/10/01
Commission Issued Protective Order	09/05/01
Commission Issues Order Setting Intervention Period & Date For Early Prehearing Conference	10/04/01
Intervention Period Closes	10/24/01
Early Prehearing Conference	10/25/01
UE & Intervenors File Rebuttal Testimony & Schedules	12/21/01
Prehearing Conference	01/07/02 – 01/11/02
Staff Files Surrebuttal Testimony & Schedules and UE, Public Counsel & Intervenors File Cross-Surrebuttal	02/19/02
Staff Files List Of Issues, Order Of Issues, Order Of Witnesses & Order Of Cross-Examination	02/21/02
Parties Submit Statements Of Positions	02/28/02
Evidentiary Hearings	03/11/02 – 03/22/02

6. Finally, since AmerenUE has told the Commission that its proposed procedural schedule is driven by the need for adequate time to conduct discovery, the Staff, pursuant to Missouri Supreme Court Rules Of Civil Procedure (Mo. R. Civ. P.) 59.01(b), 57.01(b) and 58.01(c), and would advise the Commission that the Staff received by electronic mail on August 3, 2001 and by first class mail on August 6, 2001 Union Electric Company's First Requests For

Admission, First Set Of Interrogatories and First Set Of Requests For Production Of Documents. AmerenUE's First Requests For Admission propounds 33 requests for admission; AmerenUE's First Set Of Interrogatories, many of which with multiple subparts, propounds 106 interrogatories, and AmerenUE's First Set Of Requests For Production of Documents propounds 72 requests for production of documents. The Staff has responded in large part but still is in the process of responding.

Wherefore, in response to the Office of the Public Counsel's Request For Order Setting Evidentiary Hearing, the Staff requests that the Commission issue an order setting an intervention period and an early prehearing conference for the purpose of setting a procedural schedule and test year in this case, and also direct that the parties report to the Commission in writing by 4:00 p.m. the day after the early prehearing conference whether the parties have been able to reach agreement on a procedural schedule.

Respectfully submitted,

DANA K. JOYCE
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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 28th day of September, 2001.

Service List for
Case No. EC-2002-1
Verified: September 14, 2001 (rr)

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