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September 27, 2001

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

FILED³

SEP 27 2001

RE: Union Electric
Case No. EC-2002-1


**Missouri Public
Service Commission**

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case please find the original and eight copies of **REQUEST FOR ORDER SETTING EVIDENTIARY HEARING**. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Sincerely,


John B. Coffman
Deputy Public Counsel

JBC:jb

cc: Counsel of Record

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

FILED³
SEP 27 2001

STAFF OF THE MISSOURI
PUBLIC SERVICE COMMISSION,
Complainant,

vs.

UNION ELECTRIC COMPANY,
d/b/a AmerenUE,
Respondent.

Case No. EC-2002-1

Missouri Public
Service Commission

REQUEST FOR ORDER SETTING EVIDENTIARY HEARING

COMES NOW the Office of the Public Counsel (Public Counsel), and for its Request for Order Setting Evidentiary Hearing states as follows:

1. On July 2, 2001, the Staff of the Commission (Staff) filed an excess earnings Complaint, accompanied by comprehensive prepared direct testimony showing that Union Electric Company d/b/a AmerenUE (Company) is, on an approximate basis, over-earning somewhere between \$213 million to \$250 million a year. In its Complaint, Staff proposed a hearing beginning December 3, 2001. Public Counsel and other intervenors filed motions in support of Staff's proposed procedural schedule. On July 10, 2001, Company proposed a hearing beginning March 12, 2002.

2. The Commission has yet to issue an order granting any proposed procedural schedule in this case and has not even established dates for the evidentiary hearing in this manner. Public Counsel is extremely concerned that the delay in establishing a procedural schedule in this case has already cost Company's consumers millions of dollars. Because of the legal prohibition against retroactive ratemaking, time is of the

essence in reaching a final Commission order. As Public Counsel explained in its July 19, 2001 pleading, *when* the Commission issues a rate reduction order in this case is very important. Any delay in the procedural schedule of this case delays that final Commission order, and prolongs the excess rates that Company is currently charging its customers.

3. The matter of a procedural schedule has now been pending for well over **two months**. Certain deadlines proposed by Staff and Company in their respective procedural schedule recommendations have already come and gone. Under Staff's proposed procedural schedule, Company and all other parties to this case would have already filed prepared rebuttal testimony and schedules on September 18, 2001. Public Counsel is becoming increasingly concerned that the proposed dates for an evidentiary hearing in this case may no longer be open and available on the Commission's calendar at this time.

4. The Commission must equitably balance the interests of consumers and shareholders. Basic fairness and symmetry require that consumers receive rate decreases as expeditiously as utilities receive rate increases.

Public Counsel would like to point out to the Commission that an evidentiary hearing has typically been established within thirty days from the date a rate increase case is initiated. Over the past two years, the average span of time from the initial tariff filing requesting a rate increase to the day on which the Commission established dates for an evidentiary hearing has averaged **25 days**. (Attachment 1 to this pleading shows how this average was calculated.) **87 days** have passed since the date Staff filed this Complaint and requested that the Commission establish a procedural schedule in this matter.

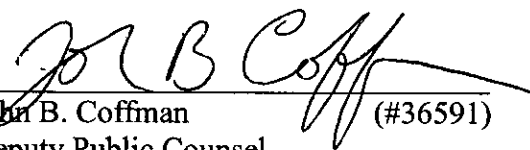
5. As Public Counsel explained over two months ago, even a mere one month delay of this case deprives consumers of several million dollars. Assuming the Commission ultimately determines that Company is over-earning by the full \$250 million a year, a one-month delay deprives consumers of **\$20.8 million**. Even if you assume that the Commission will ultimately order only one-half of the rate reduction that is supported by Staff's audit, consumers are deprived of **\$10.4 million** for each delay of one month.

6. Public Counsel recognizes and appreciates that the Commission has several other cases pending before it at this time; however, and with all due respect, this case is of such importance to the public and the amount of ratepayer funds involved is so large that, at a minimum, an evidentiary hearing should be set immediately.

WHEREFORE, Public Counsel respectfully requests that the Commission establish a procedural schedule in this matter, or at a minimum, issue an order setting dates for an evidentiary hearing at its earliest opportunity.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By: 
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<u>Case Number</u>	<u>Company</u>	<u>Date Rate Case Filed</u>	<u>Effective Date of Order Setting Hearing Date</u>	<u>Days Between Case Filed and Order Setting Hearing Date</u>	<u>Date Evidentiary Hearing Began</u>	<u>Days Between Case Filed and Date Evidentiary Hearing Began</u>
ER-2001-299	Empire District Electric Company	11/03/00	11/26/00	23	05/24/01	202
GR-99-315	Laclede Gas Company	01/26/99	02/19/99	24	08/09/99	195
WR-2000-281	Missouri-American Water Company	10/15/99	11/09/99	25	05/09/00	207
GR-2001-292	Missouri Gas Energy	11/07/00	12/07/00	30	06/11/01	216
ER-99-247	St. Joesph Light & Power	12/01/98	12/22/98	21	07/06/99	217
WR-2000-844	St. Louis County Water Company	06/23/00	07/17/00	24	02/05/01	227
GR-2000-512	Union Electric	02/18/00	03/13/00	24	10/30/00	255
WR-99-326	United Water Missouri	02/02/99	03/01/99	27	08/16/99	195
ER-2001-672	Missouri Public Service	06/08/01	07/01/01	23	01/07/02	213
GR-2001-629	Laclede Gas Company	05/18/01	06/17/01	30	12/17/01	213
			Average Days Between	25		
						214

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following this 27th day of September 2001:

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Missouri Public Service Commission
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A handwritten signature in cursive script, appearing to read "J B Cook", is written over a horizontal line.