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December 19, 2001

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

FILED
DEC 19 2001
Missouri Public
Service Commission

**RE: Union Electric Company,
Case No. EC-2002-1**

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case please find the original and eight copies of **Public Counsel's Response to Nunc Pro Tunc Order**. Please "file" stamp the extra-enclosed copy and return it to this office.

A copy of this pleading has also been hand delivered to each Public Service Commissioner.

Thank you for your attention to this matter.

Sincerely,


John B. Coffman
Deputy Public Counsel

JBC:jb

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

STAFF OF THE MISSOURI)
PUBLIC SERVICE COMMISSION,)
Complainant,)
)
vs.)
)
UNION ELECTRIC COMPANY,)
d/b/a AmerenUE,)
Respondent.)

Case No. EC-2002-1

PUBLIC COUNSEL'S RESPONSE TO NUNC PRO TUNC ORDER

COMES NOW the Office of the Public Counsel (Public Counsel), and for its Response states as follows:

1. On December 18, 2001, the Public Service Commission (Commission) issued an order entitled Correction Order: Nunc Pro Tunc Order Directing Filing and Modifying Filing Dates, ordering parties to file a response to the procedural schedule contained in a motion to reconsider filed by the Commission Staff (Staff) on December 11, 2001.

Public Counsel will respond to the Staff Procedural Schedule to the best of its ability; however, such a response is complicated by several factors, including the following:

a. The appropriate procedural schedule for this case will depend on how the Commission rules upon Public Counsel's Motion for Reconsideration or Clarification, filed on December 11, 2001, and whether the Commission decides to adopt the test year that serves as the basis for Staff's prepared direct testimony, filed on July 2, 2001.

b. Likewise, Public Counsel's procedural schedule recommendations are dependent upon whether the Commission can truly secure a guarantee that

based upon a test year of twelve months ending June 30, 2000. The Commission's Test Year Order would render those specific revenue recommendations irrelevant. Unfortunately, it would be of little value to require parties in this case to "respond" to the Staff testimony currently on file, which is based on a test year different than the test year ordered by the Commission. In fact, requiring Public Counsel to file rebuttal testimony in such a manner raises due process concerns.

In order to allow Public Counsel to prepare meaningful rebuttal testimony, such testimony should be due a sufficient amount of time following any new direct testimony from Staff based upon the new Commission-ordered test year. Given the time that would be required to conduct additional discovery based upon the new test year, Staff's proposed procedural schedule is reasonable. Company and Public Counsel should be required to file rebuttal testimony simultaneously, as Staff has proposed.

Public Counsel's agreement to the procedural schedule proposed by Staff on pages 4 and 5 of Staff's December 11, 2001 motion would be specifically conditioned upon an order from the Commission requiring Company to honor a commitment to allow rates to become interim subject to refund effective April 1, 2002. There is currently little assurance that this commitment would be binding given the legal prohibition against retroactive ratemaking. Given that hundreds of millions of dollars are at stake and the fact that numerous legal controversies have arisen from past agreements with Company, Public Counsel remains highly skeptical.

If the Commission intends to protect consumers by allowing rates to become interim subject to refund, it should insist upon an ironclad guarantee. The best method of ensuring this result would be tariffs filed voluntarily by Company and approved by the Commission which make such a commitment binding. On December 17, 2001, Company filed a reply to Staff's motion, stating that, under certain conditions, it would file "appropriate" tariffs making rates

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following this 19th day of December 2001:

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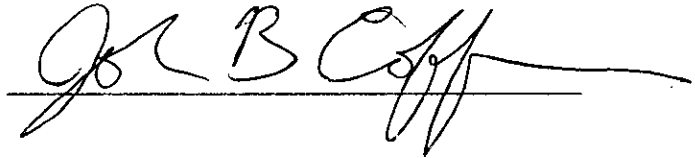
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A handwritten signature in dark ink, appearing to read 'J B Cook', is written over a horizontal line.