

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

COMES NOW Laclede Gas Company (“Laclede”) and, pursuant to the Commission's Order Modifying Procedural Schedule for Consideration of Interim Rate Tariff, issued on November 12, 2009, files its Statement of Position and, in support thereof, states as follows:

ISSUES TO BE HEARD

- I. Do the circumstances presently encountered by AmerenUE warrant the Commission authorizing AmerenUE interim rate relief as generally proposed by AmerenUE?
 - a. Should there be criteria for the Commission to use to decide whether interim rate relief is warranted? If so, what should that criteria be?

Yes. AmerenUE has filed for a rate increase of more than \$400 million. There is information already available to the Commission and the parties that represents a reasonable view of the relevant factors in this rate case, and that should justify an increase of substantially more than one-tenth of this amount. Under these circumstances, there is no just reason why AmerenUE should not be able to begin billing the amount requested on an interim basis.

especially since such amount would be billed subject to refund with interest upon the conclusion of the rate case.

There should be criteria for the Commission to use when deciding on interim rate relief. The criteria should be whether good cause exists to grant such relief. Good cause would include the Commission's reasonable belief that the available information indicates that a rate increase is likely to exceed the amount requested.

II. If the circumstances presently encountered by AmerenUE warrant the Commission authorizing AmerenUE interim rate relief as generally proposed by AmerenUE, has AmerenUE provided adequate justification for the proposed level of interim rate relief?

a. Should there be criteria for the Commission to use to determine the appropriate level of interim rate relief? If so, what should that criteria be?

LACLEDE'S POSITION:

Yes. As stated in its position on Issue I above, Ameren has provided adequate justification for the proposed level of interim rate relief. The criteria applied by the Commission should be whether the information available indicates that AmerenUE will likely be entitled to a rate increase that will exceed the amount of interim rate relief AmerenUE has requested.

III. If the Commission finds that the circumstances presently encountered by AmerenUE warrant the Commission authorizing AmerenUE interim rate relief as proposed by AmerenUE, may and should the Commission adopt criteria for interim rate relief with greater applicability than the instant case?

LACLEDE'S POSITION:

The Commission is certainly permitted, but not required, to adopt criteria for interim rate relief that has broader applicability than the instant rate case. Given the exigent circumstances of

this interim rate request, the Commission should not feel compelled to make a decision of broad applicability if it believes that the issue merits a more extensive review.

IV. Is any interim rate relief criteria other than the emergency/near emergency criteria lawful?

LACLEDE'S POSITION:

Certainly. As recognized by the Commission in its November 23, 2009 Order denying Public Counsel's Motions for Summary Determination and Directed Verdict, the Commission is afforded broad discretion in deciding on interim rate increases, and is not required to demand proof that an emergency or near emergency exists. (Order at 4-5; *State ex rel. Laclede Gas Co. v. Public Service Comm'n*, 535 S.W.2d 561 (Mo. App. K.C. 1976))

V. If the emergency / near emergency criteria is not the sole lawful criteria for interim rate relief, what other criteria is lawful?

LACLEDE'S POSITION:

As stated above, the Commission has broad discretion to determine the criteria for interim rate relief. It would be unlawful for the Commission to abuse that discretion. For example, it would likely be an abuse of discretion if the Commission were to find that interim rate relief was not justified even in an emergency situation, or if the Commission were to find that a utility was entitled to interim rate relief in an amount that exceeded the amount justified by the utility.

Finally, while the parties appear to agree that some level of regulatory lag is helpful to provide incentive for utilities to control costs, the information relevant to rate cases is essentially available today. To the extent that information supports a material rate increase, there is no fair or equitable reason not to grant a modest interim rate increase, as requested by Ameren herein.

Respectfully requested,

/s/ Michael C. Pendergast

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing pleading has been duly served upon all counsel of record in this case by email, facsimile, United States mail, postage prepaid, or by hand delivery, on this 3rd day of December, 2009.

/s/ Gerry Lynch

Gerry Lynch