

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

In the Matter of Union Electric Company	)	
d/b/a AmerenUE for Authority to File Tariffs	)	<b><u>Case No. ER-2007-0002</u></b>
Increasing Rates for Electric Service	)	Tariff No. YE-2007-0007
Provided to Customers in the Company's	)	
Missouri Service Area.	)	

Staff of the Missouri Public Service	)	
Commission,	)	
	)	
Complainant,	)	
	)	
v.	)	
	)	
Union Electric Company, doing business	)	
As AmerenUE,	)	
	)	
Respondent.	)	

**STAFF'S OVEREARNINGS COMPLAINT**

COMES NOW the Staff of the Missouri Public Service Commission, Complainant, by and through the Commission's General Counsel pursuant to §§ 386.240, 386.390.1, 393.140(5), RSMo.<sup>1</sup>, and Commission Rule 4 CSR 240-2.070(1), and hereby complains to the Commission that the rates and charges for electric service of Respondent Union Electric Company, doing business as AmerenUE, are unjust and unreasonable in that Staff's audit shows that Respondent is thereby earning in excess of a reasonable rate of return and that its rates and charges produce revenues that are excessive in relation to UE's

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<sup>1</sup> All statutory references herein, unless otherwise specified, are to the Revised Statutes of Missouri ("RSMo."), revision of 2000.

cost of providing service. In further support of its Complaint, Complainant states as follows:

### **Parties**

1. Union Electric Company, doing business as AmerenUE (“UE”), is a traditional, vertically-integrated electric and gas utility that presently provides retail electric services to more than one million members of the public in Missouri.

2. The General Counsel of the Missouri Public Service Commission is authorized and required by § 386.071 to represent and appear for the Commission in all actions and proceedings as directed by the Commission. Pursuant to specific authority at § 386.240, the Commission in its Rule 4 CSR 240-2.070(1) has delegated to the General Counsel its authority, at § 386.390.1, to bring a complaint “on its own motion” concerning the reasonableness of the rates and charges of any electrical corporation. In addition, the Commission has specifically authorized the filing of an over-earnings complaint by Staff in this case in its Order of July 14, 2006: *Order Amending Suspension Order and Notice*. The cited Order specifically directed that any such complaint be filed in Case No. ER-2007-0002.

### **Jurisdiction**

3. UE is engaged in the generation, transmission and retail distribution of electricity for compensation and is thus both an “electrical corporation” and a “public utility” within the intendments of § 386.020, RSMo. Supp. 2005. UE is thus subject to the regulation of this Commission pursuant to § 386.250 and Chapter 393, RSMo.

### **Facts**

4. On July 7, 2006, UE filed certain proposed tariff sheets with the Commission seeking a general increase in retail electric rates of some \$361 million dollars on an annual basis. That rate increase request is presently pending before this Commission as Case No. ER-2007-0002.

5. As a direct result of the rate increase request described in Paragraph 2, above, the Staff of the Missouri Public Service Commission (“Staff”) performed an audit of UE’s books and records, the results of which were filed in Case No. ER-2007-0002 in the form of Staff’s Accounting Schedules, item 185 (Sch. 1) in the electronic docket maintained by the Commission’s EFIS system. Staff’s audit, as described by Staff expert Greg Meyer in his Direct Testimony filed in Case No. ER-2007-0002, item 192 (pp. 3-4), revealed that “the current normalized revenues which AmerenUE collects on an annual basis are excessive by” between \$136 million and \$168 million. Staff hereby incorporates herein by reference as though fully set out the Staff Accounting Schedules and Direct Testimony that it has filed in Case No. ER-2007-0002, items 185 (Staff Accounting Schedules), 172 (Edward F. Began), 173 (Shawn E. Lange), 174 (Leon Bender), 175 (James A. Busch – Revenue Requirement), 176 (Erin Maloney), 177 (John Cassidy, NP and HC), 178 (Lena M. Mantle), 179 (Jolie L. Mathis), 180 (Doyle Gibbs), 182 (Jeremy K. Hagemeyer), 183 (Lisa K. Hanneken, NP and HC), 184 (Steven G. Hill), 186 (Michael S. Proctor, NP and HC), 187 (Michael E. Taylor, NP and HC), 188 (Curt Wells), 189 (Warren Wood), 190 (Stephen M. Rackers), 192 (Greg Meyer), 197 (Michael L. Rahrer), 211

(James A. Busch – Rate Design), and 212 (David C. Roos –Rate Design) in the docket sheet maintained for Case No. ER-2007-0002.

6. By reason of the foregoing, UE's rates and charges are unjust and unreasonable.

7. Section 393.130.1, RSMo. Supp. 2005, provides in pertinent part as follows:

All charges made or demanded by any such . . . electrical corporation . . . for . . . electricity . . . or any service rendered or to be rendered shall be just and reasonable and not more than allowed by law or by order or decision of the commission. Every unjust or unreasonable charge made or demanded for . . . electricity . . . or any such service, or in connection therewith, or in excess of that allowed by law or by order or decision of the commission is prohibited.

8. Section 393.140 provides in pertinent part as follows:

Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that the rates or charges or the acts or regulations of any such persons or corporations are unjust, unreasonable, unjustly discriminatory or unduly preferential or in any wise in violation of any provision of law, the commission shall determine and prescribe the just and reasonable rates and charges thereafter to be in force for the service to be furnished, notwithstanding that a higher rate or charge has heretofore been authorized by statute . . . .

9. Section 393.270 provides in pertinent part as follows:

1. Before proceeding under a complaint presented as provided in sections 393.110 to 393.285, the commission shall cause notice of such complaint, and the purpose thereof, to be served upon the person or corporation affected thereby. Such person or corporation shall have an opportunity to be heard in respect to the matters complained of at a time and place to be specified in such notice. \* \* \*

2. After a hearing and after such investigation as shall have been made by the commission or its officers, agents, examiners or inspectors, the commission within lawful limits may, by order, fix the

maximum price of . . . electricity . . . not exceeding that fixed by statute to be charged by such corporation or person, for the service to be furnished; \* \* \*

3. The price fixed by the commission under sections 393.110 to 393.285 shall be the maximum price to be charged by such corporation or person for . . . electricity . . . service to be furnished within the territory and for a period to be fixed by the commission in the order, not exceeding three years, except in the case of a sliding scale, and thereafter until the commission shall, upon its own motion or upon the complaint of any corporation or person interested, fix a higher or lower maximum price of . . . electricity . . . service to be thereafter charged.

4. In determining the price to be charged for . . . electricity . . . the commission may consider all facts which in its judgment have any bearing upon a proper determination of the question although not set forth in the complaint and not within the allegations contained therein, with due regard, among other things, to a reasonable average return upon capital actually expended and to the necessity of making reservations out of income for surplus and contingencies.

\* \* \*

**WHEREFORE,** Staff prays that the Commission will direct notice of this Complaint to UE, requiring that UE file a sufficient answer or other response thereto; convene an evidentiary hearing; and, on the basis of the competent and substantial evidence adduced, determine just and reasonable rates and fix the maximum price that UE may charge for retail electrical service provided to the public, which rates and charges should produce revenues that are between \$136 million and \$168 million less on an annual basis than UE's revenues realized from its current rates; and grant such other and further relief as may be just.

Respectfully submitted,

s/ Kevin A. Thompson  
**KEVIN A. THOMPSON**  
Missouri Bar Number 36288  
General Counsel

Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102  
573-751-6514 (Voice)  
573-526-6969 (Fax)  
kevin.thompson@psc.mo.gov

Attorney for the Staff of the Missouri  
Public Service Commission.

**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this **29<sup>th</sup> day of December, 2006**, to the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

s/ Kevin A. Thompson