

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

In the Matter of an Investigation Into)	
An Incident in December 2005 at the)	
Taum Sauk Pumped Storage Project)	Case No. ES-2007-0474
Owned and Operated by the Union)	
Electric Company, doing business as)	
AmerenUE.)	

**AMERENUE’S RESPONSE TO STAFF’S MOTION
TO OPEN AN INVESTIGATION INTO THE TAUM SAUK INCIDENT**

COMES NOW Union Electric Company d/b/a AmerenUE (“AmerenUE”) and for its response to the Motion to Open an Investigation into the Taum Sauk Incident filed on June 8, 2007 by the Staff of the Missouri Public Service Commission (“Staff”) states as follows:

1. As the Commission is well aware, on December 14, 2005, the upper reservoir of AmerenUE’s Taum Sauk pumped storage facility located in Reynolds County, Missouri failed, resulting in the discharge of 1.3 billion gallons of water down Proffit Mountain, where the Taum Sauk plant is located. This discharge of water damaged the area in and around Johnson’s Shut-Ins State Park, and destroyed the home of the park superintendent.

2. In the nearly 18 months since the Taum Sauk incident occurred, it has been the subject of numerous exhaustive investigations. In fact, this incident is arguably the single most investigated incident in the history of the State of Missouri. Specifically:

(a) AmerenUE retained an expert consultant, Paul C. Rizzo, Ph.D., P.E., to investigate the Taum Sauk incident, and on April 7, 2006 Mr. Rizzo issued a 705-page

report. This report is available on the Federal Energy Regulatory Commission (“FERC”) website.

(b) The FERC—the agency which issued the federal license for Taum Sauk and which has jurisdiction over safety issues for all federally licensed dams—conducted two separate investigations of the incident. The FERC Staff issued a 239-page report of its investigation on April 28, 2006, and that report is also available on the FERC’s website. In addition, the FERC retained an independent panel of consultants¹ to conduct a separate investigation. The 134-page report of the panel’s investigation was issued on May 25, 2006 and it is available on the FERC’s website.

(c) Two agencies within the State of Missouri also conducted investigations into the Taum Sauk incident. The Missouri Department of Natural Resources’ (“MDNR”) Water Resources Center, Dam and Reservoir Safety Program conducted one of these investigations. In addition, the Missouri State Highway Patrol conducted a separate investigation. The over 2,000-page Highway Patrol investigation report was provided to the Missouri Attorney General, and made available to the public.

3. On June 8, 2007, nearly 18 months after the Taum Sauk incident occurred, the Staff filed a motion seeking to open a sixth investigation. The Staff’s request appears to be based exclusively on a newspaper article by Associated Press reporter Christopher

¹FERC’s distinguished panel of consultants consisted of Alfred J. Hendron, Jr., Joseph L. Ehasz and Kermit Paul. Dr. Hendron serves as Professor Emeritus of Civil Engineering at the University of Illinois, and his experience in seismic engineering spans over 40 years. Dr. Hendron has acted as a consultant to the FERC on numerous projects involving dam safety in regard to seismic activity. Mr. Ehasz is currently Vice President of Washington Infrastructure, Inc. Mr. Ehasz holds a Masters Degree in Civil Engineering. He has over 36 years of experience in the design and construction of hydroelectric facilities and dam projects. Kermit Paul holds a Masters Degree in Applied Mechanics and has been involved in the study and development of hydroelectric projects since 1965. He is licensed in California as a Mechanical Engineer and also as an Electrical Engineer. He has major expertise in pumped storage projects, such as Taum Sauk, and the instrumentation for such projects.

Leonard which appeared in the *St. Louis Post-Dispatch* and the *Kansas City Star* on June 4, 2007. Subsequent to the publication of this article, the Associated Press issued a correction retracting one of the key allegations in the article. (See Attachment A).

4. AmerenUE is strongly opposed to the Staff's proposal to initiate yet another investigation into the Taum Sauk incident for three reasons. First, the basis the Staff cites for initiating its proposed investigation—the Christopher Leonard newspaper article—is demonstrably incorrect in its allegations of impropriety on AmerenUE's part. As a consequence, the newspaper article provides no basis whatsoever for initiating another investigation. Second, a sixth investigation of the Taum Sauk incident would be redundant and unnecessary, given the exhaustive investigations conducted by numerous experts as well as federal and state agencies over the last 18 months. Third, and perhaps most significantly, the launching of an additional investigation at this point could be harmful to the State of Missouri because it could create an significant obstacle to AmerenUE's efforts to reach a mutually acceptable resolution of this issue with the MDNR and the Attorney General, and to take steps to promptly rebuild the Taum Sauk facility, to the ultimate detriment of AmerenUE's operations and to the citizens of Reynolds County, Missouri, who are heavily dependent on tax revenue derived from the Taum Sauk facility.

5. The Staff's proposal to open an investigatory docket is based on a few demonstrably incorrect allegations contained in the Christopher Leonard article. First, and most significant, is Mr. Leonard's incorrect allegation that AmerenUE personnel may have tampered with evidence to intentionally impede the investigations. In particular, Mr. Leonard alleges that AmerenUE failed to identify the employees who raised the

probes² at the Taum Sauk facility for testing immediately after the breach. In fact, AmerenUE disclosed this information over one year ago, in a letter dated May 23, 2006 to Sergeant Tom Breen of the Missouri Highway Patrol, and in subsequent interviews conducted during the Highway Patrol investigation. This information is included in the Highway Patrol report.³ In recognition of these facts, the Associated Press took the unusual step of issuing a correction of the Leonard article containing a specific retraction of this allegation. (*See* Attachment A.) This demonstrably false allegation provides absolutely no basis for initiating an investigation.

6. Second, Mr. Leonard alleges that AmerenUE was generally uncooperative in the investigation, and did not provide all of the emails and other information requested by the Highway Patrol. Again, this allegation is demonstrably false. AmerenUE did in fact fully cooperate in the Highway Patrol's investigation, and all of the other investigations into the Taum Sauk incident. All requested emails and other information were provided and all AmerenUE witnesses were interviewed. Unfortunately, Mr. Leonard's erroneous conclusions appear to be based on the fact that he relied on a summary of the Highway Patrol's investigation dated March 26, 2006, which did not reflect the information provided by AmerenUE after that date. Mr. Leonard's allegation that AmerenUE was uncooperative is inconsistent with the final report of the Highway Patrol, and it also provides absolutely no basis for the initiation of the proposed investigation.

² The probes are safety devices that were designed to shut off the Taum Sauk facility once the water reached a certain level.

³ It is apparent that the Staff had not even read the Highway Patrol report prior to filing its pleading asking the Commission to initiate an investigatory proceeding. The Staff relies exclusively on Mr. Leonard's erroneous newspaper article.

7. Third, the Staff relies on “concerns” Mr. Leonard’s article raises that there may be a corporate culture at Ameren and AmerenUE that undervalues safety issues in favor of profit seeking. In support of this, the Staff cites a short quote from Taum Sauk Superintendent Richard Cooper in which Mr. Cooper stated “that he had people above him and below him that wanted to know what was going on. Since the upper reservoir was set two feet lower, that was resulting in producing less mega watts [sic] of electricity.” This short quote, taken out of context by a reporter, is completely refuted by a reading of the full summary of Mr. Cooper’s interview, contained in the Highway Patrol report. In that interview, Mr. Cooper emphasized that as plant superintendent he had the authority to shut down operations at the upper reservoir if he thought there was a safety issue. He stated that he did not receive any pressure from supervisors to keep the upper reservoir running related to this incident and that never in his career at Ameren/Union Electric had he been overruled concerning safety issues. In short, neither the Cooper interview, nor any other evidence assembled in the course of the massive investigations of the Taum Sauk incident showed that safety ever took a back seat to profits or any other considerations at AmerenUE.

8. In addition to being baseless, the Staff’s proposed investigation is also completely unnecessary. As previously indicated, there have already been five exhaustive investigations of the Taum Sauk incident, initiated by federal and state agencies, including FERC, the MDNR and the Missouri Attorney General. Contrary to the Staff’s implication, the previous investigations have not been hampered by an inability of the investigators to acquire needed information, and the reports confirm this fact. AmerenUE has voluntarily complied with all requests for documents and requests

to interview witnesses. To AmerenUE's knowledge there is no allegation in the Highway Patrol's voluminous report that AmerenUE has been anything less than fully cooperative in this investigation. Moreover, AmerenUE has already accepted full responsibility for the effects of the breach of the Taum Sauk reservoir. Rehashing the issues through a sixth investigation would provide no additional useful information, would result in a waste of the resources of the Commission and other parties, and is a completely unnecessary exercise.

9. More significantly, initiation of another investigation at this late date would actually be harmful to the State of Missouri. In the 18 months since the breach occurred, AmerenUE has worked diligently to cooperate in the various investigations, has paid a substantial fine to the FERC, and has negotiated in good faith to attempt to reach a resolution of issues with the Missouri Attorney General and the MDNR. It is important that the issues of these state authorities be fully resolved, so that the AmerenUE can promptly pursue rebuilding the plant. The plant provides operational benefits to AmerenUE's system, and tax revenue from the plant provides needed support to the citizens of Reynolds County, where the facility is located. Initiation of a brand new, redundant investigation could create a significant obstacle to AmerenUE's efforts to negotiate a resolution of this issue with the Attorney General and the MDNR, move forward with the rebuilding of the Taum Sauk facility, and complete the restoration of Johnson's Shut-Ins State Park.

WHEREFORE, for the reasons stated herein, AmerenUE respectfully requests that the Commission deny the Staff's Motion to Open an Investigation Into the Taum Sauk Incident.

Respectfully submitted,

UNION ELECTRIC COMPANY,
d/b/a AmerenUE

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June 12, 2007

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Response was served via e-mail, to the following parties on the 12th day of June, 2007.

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Jun 11, 10:24 PM EDT

Correction: Reservoir-Failure-Evidence Story

ST. LOUIS (AP) -- In stories June 4 and June 5 about the Taum Sauk reservoir collapse, The Associated Press reported erroneously that Ameren Corp. never told the Missouri State Highway Patrol which of its employees had removed safety gauges after the collapse. The patrol's 2,000-page report included a letter from Ameren identifying the two employees. Ameren said it has cooperated fully with the patrol.

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