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July 24, 2002

By Hand Delivery
The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102-0360

Re: Case No. EC-2002-1

Dear Judge Roberts:

Enclosed for filing on behalf of the Missouri Industrial Energy Consumers in the above-referenced case are an original and eight (8) copies of the *The Missouri Industrial Energy Consumers' Response to Staff Memorandum in Support of July 15 Stipulation and Agreement*. I would appreciate it if you would have the additional copy file-stamped.

Thank you for your assistance in bringing this filing to the attention of the Commission

Very truly yours,

Diana Vuylsteke

Diana M. Vuylsteke

DMV: dv
cc: All Parties of Record
Enclosures

FILED[3]

JUL 24 2002

Missouri Public Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Staff of the Missouri Public Service Commission,	)	
Complainant,	)	
v.	)	Case No. EC-2002-1
Union Electric Company, d/b/a AmerenUE,	)	
Respondent.	)	

MISSOURI INDUSTRIAL ENERGY CONSUMERS' RESPONSE TO STAFF MEMORANDUM IN SUPPORT OF JULY 15, 2002 STIPULATION AND AGREEMENT

Comes now Adam's Mark Hotel, Alcoa Foil Products, Anheuser-Busch Companies, Inc., The Boeing Company, DaimlerChrysler, Ford Motor Company, General Motors Corporation, Holcim, Hussmann Refrigeration, ISP Minerals, Mallinckrodt, Inc., Monsanto Company, Precoat Metals, Procter & Gamble Manufacturing, Ralston Purina and Solutia, hereafter referred to as the Missouri Industrial Energy Consumers ("MIEC"), and files its Response to Staff Memorandum in Support of July 15, 2002 Stipulation and Agreement ("Staff Memorandum"). The MIEC's failure to address any portion of the Staff Memorandum should not be construed as agreement, and the MIEC reserves the right to continue to respond to issues as they arise in this case. Although the MIEC wishes to clarify several issues raised in the Staff Memorandum, the MIEC strongly supports the July 15 Stipulation and Agreement.

The MIEC disagrees with the Staff's Memorandum regarding the rate design for the Large General Service ("LGS") and Small Primary Service ("SPS") classes. The Staff Memorandum discusses this issue in Section III, pages 4 through 6, and in Section XV.A., pages 26 through 28.

The Staff describes this as an "outstanding rate design matter". The Staff states that "the Staff did not pursue finally resolving the difference in rate levels between the Large General Service and Small Primary Service customers that the Staff had addressed and parties had agreed to in UE's last customer class cost of service/rate design case, EO-96-15, and which the Staff had hoped to address in this proceeding." *Staff Memorandum, p. 5.*

The MIEC does not wish to belittle the position of Staff but strongly disagrees with the Staff's characterization that "the parties had agreed to" resolution of this issue, or that it continues to be "outstanding rate design matter". The MIEC views the Staff's position on LGS/SPS rate design as one of many positions on which the various parties compromised in order to achieve settlement.

Both in the present case and in EO-96-15, the MIEC strongly disagreed with the Staff position on this issue. The MIEC has never agreed in this case or in any prior case to any particular rate design change or cost shift to the SPS class beyond what occurred as a result of the Commission's November 18, 1999 Report and Order in EO-96-15. The Stipulation in EO-96-15 provides merely that "the Company and the Staff will jointly work toward designing rates that will reduce the current primary/secondary rate differential between the Large General Service Rate and the Small Primary Service Rate", subject to certain conditions. *See Report and Order, Case No. EO-96-15, Attachment A, pages 8 and 9.* That Stipulation further provides that:

> None of the signatories shall be deemed to have approved or acquiesced in any ratemaking or procedural principle, including, without limitation, any method of cost determination or cost allocation . . .Furthermore, none of the Signatories shall be prejudiced or bound in any manner by the terms of this Stipulation and Agreement in this or in any other proceeding, except as expressly provided herein.

Accordingly, it is clear that nothing in the EO-96-15 Stipulation binds the parties in any manner to Staff's LGS/SPS proposal in this or in any other proceeding. While the Staff position on this issue was not agreed to by the parties to the present case, each party to the July 15 Stipulation and Agreement compromised on its positions in order to achieve the overall settlement. Moreover, the cost of service evidence shows that the SPS class is producing a higher rate of return than the LGS class. This means that the SPS class should get a larger decrease than the LGS class. Staff's rate proposal would have done just the opposite by decreasing the LGS class more than the SPS class. The MIEC submits that this issue is no different than these others, and that the July 15 Stipulation and Agreement in no way violates or changes the letter or the spirit of any prior agreements of the parties.

Staff notes at page 26 of its Memorandum that the targeted additional decrease to the LPS class is consistent with economic development for the state. MIEC agrees. MIEC also directs the Commission's attention to Mr. Brubaker's Surrebuttal Testimony Schedule 1. It shows that UE's rates are distorted. This schedule uses data submitted by UE and shows that as compared to the rates charged by utilities in both the West North Central Region and the East North Central Region, UE's residential and commercial rates are the lowest; while its industrial rates are the highest. Targeting additional reductions to the LPS class would help bring these relationships in line.

Moreover, MIEC notes that the cost of service evidence shows that the LPS class is producing a substantially above-average rate of return, and should receive a decrease that is 10 percentage points greater than the 6 percent average decrease, or about 16 percent. The decrease under the settlement is less than this amount.

MIEC urges the Commission to adopt the July 15 Stipulation and Agreement as presented.

Respectfully submitted,

BRYAN CAVE, LLP

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been served by hand delivery or United States mail on all parties on this 24th day of July, 2002.

Diana Vuylsteke