

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

In the Matter of Union Electric Company's	)	
2011 Utility Resource Filing Pursuant to	)	<b><u>Case No. EO-2011-0271</u></b>
4 CSR 240 – Chapter 22	)	

**PUBLIC COUNSEL'S MOTION TO REJECT AMEREN MISSOURI'S RESPONSE TO  
PUBLIC COUNSEL'S APPLICATION FOR REHEARING AND TO PUBLIC  
COUNSEL'S RESPONSE TO AMEREN MISSOURI'S APPLICATION FOR  
REHEARING AND REQUEST TO FILE OUT OF TIME**

COMES NOW the Office of the Public Counsel for its Motion to Reject Ameren Missouri's Response to Public Counsel's Application for Rehearing and to Public Counsel's Response to Ameren Missouri's Application for Rehearing and Request to File out of Time states as follows:

1. On March 28, 2012, the Commission issued its Report and Order.
2. On April 25, Union Electric Company d/b/a Ameren Missouri filed an application for rehearing of the Report and Order, and on April 26, Public Counsel filed an application for rehearing of the Report and Order.
3. On May 4, nine days after AMMO filed its application for rehearing, Public Counsel filed a response to that application. This response was timely filed pursuant to 4 CSR 240-2.080(15).
4. On May 16, twenty days after Public Counsel filed its application for rehearing, and twelve days after Public counsel filed its response to AMMO's application for rehearing, AMMO filed a response to both Public Counsel filings.
5. In defense of its failure to timely file its responses, AMMO simply asserts that "it was unable to file this response due the work [*sic*] required to file surrebuttal testimony and to

other activities related to the Company's Missouri Energy Efficiency Investment Act." If AMMO intended to file an untimely response, it should have requested leave to do so before the deadline, not long after. More critically, AMMO waited until **after** the Commission issued notice that the Commission would take up this matter at the May 17 Agenda meeting to file its response, effectively denying Public Counsel a meaningful opportunity to respond.

6. Moreover, AMMO's claim that it does not have sufficient resources to comply with the Commission's filing rules (or even to timely request an extension) rings very hollow. When it serves its interest, AMMO will not hesitate to bring in as many in-house and outside attorneys as it believes necessary. For example, consider a simple discovery dispute in Case No. ER-2012-0166. In response to data requests submitted in that case, AMMO had two different attorneys submit objection letters. A third attorney called on May 15 to belatedly attempt to discuss those data request, and a fourth attorney on May 16 filed a response to Public Counsel's motion to compel responses to those data requests.

7. In this instance, however, it served AMMO's interest to delay and file its response after the Commission has given notice that it will take up the Report and Order, giving Public Counsel less than 24 hours to address the filing that AMMO took 20 days to file. The Commission should not countenance such egregious behavior and should simply reject AMMO's filing as untimely.

WHEREFORE, Public Counsel respectfully requests that the Commission reject Ameren Missouri's Response to Public Counsel's Application for Rehearing and to Public Counsel's Response to Ameren Missouri's Application for Rehearing and Request to File out of Time as untimely.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ **Lewis R. Mills, Jr.**

By: \_\_\_\_\_

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I hereby certify that a copy of the foregoing has been emailed this 16 day of May 2012 to the parties of record:

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Service List for Case No. **EO-2011-0271** Last Updated: **4/3/2012**

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