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June 12, 2002

Mr. Dale H. Roberts
Secretary/Chief Regulatory Law Judge
Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED⁴

JUN 12 2002

**RE: Union Electric Company,
Case No. EC-2002-1**


Missouri Public
Service Commission

Dear Mr. Roberts:

Enclosed for filing in the above-referenced case please find the original and eight copies of **PUBLIC COUNSEL'S RECOMMENDATION REGARDING SCHEDULE OF THE EVIDENTIARY HEARING**. Please "file" stamp the extra-enclosed copy and return it to this office.

Thank you for your attention to this matter.

Sincerely,


John B. Coffman
Acting Public Counsel

JBC:jb

cc: Counsel of Record

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

STAFF OF THE MISSOURI)
PUBLIC SERVICE COMMISSION,)
Complainant,)
vs.)
UNION ELECTRIC COMPANY,)
d/b/a AmerenUE,)
Respondent.)

Case No. EC-2002-1

FILED⁴
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Missouri Public
Service Commission

PUBLIC COUNSEL'S RECOMMENDATION
REGARDING SCHEDULE OF THE EVIDENTIARY HEARING

COMES NOW the Office of the Public Counsel (Public Counsel), and for its Recommendation Regarding Schedule of the Evidentiary Hearing, states as follows:

1. On June 11, 2002, the parties determined that an impasse had been reached in determining a schedule for witnesses and issues for the evidentiary hearing scheduled to begin July 11, 2002 in this case. The parties thus agreed to file recommendations with the Public Service Commission (Commission) prior to 10:30 a.m. June 12, 2002. This pleading contains recommendations and general concerns of the Public Counsel about the scheduling of the evidentiary hearing. Whereas Public Counsel does not know exactly what recommendations will be filed by Union Electric Company d/b/a AmerenUE (Company) or by other parties, Public Counsel reserves the right to submit supplemental recommendations in reply. Nonetheless, a prompt order from the Commission establishing some guidelines for the schedule for the evidentiary hearing would be helpful to all of the parties to this complex case.

2. Public Counsel supports the proposed order of witnesses and issues as proposed by the Commission Staff (Staff), provided that such schedule begins on July 11, 2002 as the Commission has ordered. Staff is the moving party in this earnings complaint case and thus bears the burden of proof. Therefore, Staff should be allowed to initially present its case that Company's rates should be reset based upon its current cost of service. Company's proposed alternative regulation plan should be tried subsequently during the evidentiary hearing.

3. Public Counsel supports the Staff proposal to try this case by issue groups as opposed to conducting cross-examination witness by witness only. Several issues have been grouped together in general topics under which each relevant witness would be cross-examined. Public Counsel believes that this approach to the schedule is most consistent with past Commission practice. Moreover, this organizational structure would be most helpful to the parties and to the Commission as they sort through the many issues outstanding in this case.

4. Public Counsel believes that it is likely that the evidentiary hearing will be conducted within the dates currently set aside; however, questions from the bench and other unforeseen factors could create the necessity of extending the evidentiary hearing in this case. In the unlikely event that additional days are needed, Public Counsel strongly opposes the suggestion that the evidentiary hearing should be moved forward to the week of July 1, 2002.

Moving the hearing forward by ten days at this late date would create a hardship on parties with limited resources and create the potential for due process concerns. If the evidentiary hearing were moved forward to July 1, the parties would have less than

a week to review the prepared surrebuttal testimony filings, along with preparing a lengthy list of issues, position statements, preparing cross-examination, and resolving other outstanding discovery problems prior to the commencement of the evidentiary hearing. There are also several conflicts for Public Counsel attorneys and witnesses on the dates prior to July 11, 2002 that would create a hardship if the schedule were moved forward. In addition, depositions are currently being planned for the last week of June and may even be proposed by some parties for the first week of July 2002.


5. In the unlikely event that the dates currently set aside for the evidentiary hearing are not sufficient, Public Counsel is not opposed to completing the evidentiary hearing on dates currently available in September 2002. Such an extension would be reasonable and would not be likely to harm ratepayers given the following considerations:

- A. A large majority of the evidence in this case would have already been entered into the record by August 2, 2002, and an extension of the evidentiary hearing by approximately six weeks would not necessarily delay the briefing schedule by six weeks nor should it delay a Commission Report and Order by as much as six weeks.
- B. Unlike the situation that existed earlier in this case, an evidentiary hearing has now been scheduled and Company has committed to allow any rate reduction ordered in this case to become effective for ratepayers as of April 1, 2002. Therefore, any necessary and reasonable delay in a

decision in this case is not likely to reduce the ultimate relief
consumers deserve.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By:  (#36591)

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to the following this 12th day of June 2002:

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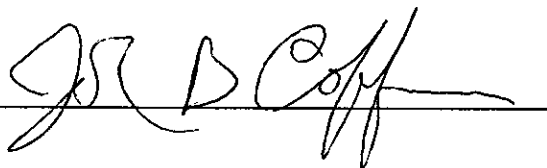
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A handwritten signature, likely "J. B. Coffey", is written over a horizontal line.