

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

In the Matter of the Application of)	
Union Electric Company d/b/a AmerenUE)	
for an Order Authorizing the Sale and)	Case No. EO-2010-0263
Transfer of Certain Assets of AmerenUE)	
to St. James Municipal Utilities)	
and Rolla Municipal Utilities.)	

**PETITION IN SUPPORT OF APPLICATION
TO INTERVENE OF DONNA D. HAWLEY**

Come now, Thomas J. Sager, (pro se) and begs that Missouri Public Service Commission (henceforth The Commission) grant him leave to file this petition in support of Donna D. Hawley's application, filed on April 26, 2010, to intervene in the matter of the Application of Union Electric Company d/b/a AmerenUE for an Order Authorizing the Sale and Transfer of Certain Assets of AmerenUE to St. James Municipal Utilities and Rolla Municipal Utilities (Case No. EO-2010-0263).

1. I have for the past 17 years been a taxpayer and resident of the City of Rolla (henceforth The City) and a customer of Rolla Municipal Utilities (henceforth RMU). In addition I have been active in civic affairs and have followed closely the career of applicant Donna Hawley. I have spoken out on numerous occasions during Citizen Comment Periods of Rolla City Council meetings on issues pertinent to this matter and other matters.

2. I note that the May 5, 2010 Motion to Deny Application to Intervene of Donna D. Hawley (henceforth Motion to Deny) of the City of Rolla and the City of St. James contains misleading, incomplete and inaccurate statements and I

wish to elaborate upon them before the Commission. I believe that it is in the best interests of the Commission, all parties to the current matter, the residents of the City of Rolla, and indeed, the entire State of Missouri, that these misleading, incomplete and inaccurate statements be discussed openly.

3. I beg the Commission to enter the below remarks into the public record and to grant Ms. Hawley's application to intervene as she requests.

4. I also beg the Commission to note that I am an ordinary citizen with no legal training and to forgive whatever errors I might make out of my lack of knowledge of proper protocol, legal format or rules and regulations of The Commission.

I: Ms. Hawley has researched the issues at hand and is knowledgeable and qualified to comment on them

A. Ms. Hawley is knowledgeable regarding the issues at hand

5. Ms. Hawley researched and publicized in 2007, the fact that RMU rates were excessive and that RMU had amassed a surplus of \$1 million at the expense of its customers. Due to her research, RMU was forced to lower its rates by one cent per KWh in May 2007; but has refused to return the surplus to the rate payers, as requested by Ms. Hawley and others.

6. Through her research, much of which RMU has admitted was correct, Ms. Hawley has earned the right to be considered competent to intervene. Many customers of RMU, including myself, are grateful to Ms. Hawley for the work she has done to reduce electric power rates and to hold RMU accountable to the public. In 2008, the voters of Ward 6 elected Ms. Hawley to

serve on the Rolla City Council by almost a two to one margin, (<http://www.phelpscounty.org/coclerk/April%202008%20Results.htm>, included by reference). Her major electoral issue was reducing electric power rates and holding RMU accountable.

B. Ms. Hawley has the support of a large segment of the community.

7. I and many others have supported Ms. Hawley in her attempts to hold RMU accountable to the public. In spite of a vicious smear campaign of which The City's Motion to Deny is a prime example, Ms. Hawley received 30% of the vote in her April 2010 bid for reelection as Ward 6 City Council Member, (<http://www.phelpscounty.org/coclerk/April%202010%20Results.htm>, included by reference). Since Ms. Hawley's major issue has always been reducing electric power rates and holding RMU accountable, lacking any more reliable data, and through extrapolation to the entire city, one could surmise that Ms. Hawley enjoys the support of at least 30% of The City's population, or well over 5,000 individuals.

C. The City has blocked Ms. Hawley's access to pertinent documents

8. The City and RMU blocked Ms. Hawley from access to documents by demanding large sums of money to reproduce them for her, and, in the case of the R.W.Beck report, claiming security considerations (§10, Motion to Deny). Rolla City Counselor, John Beger, has not, to my knowledge, claimed expertise in National Security matters; nor has he claimed to hold a security clearance, nor has R.W.Beck, to my knowledge, sought to classify its report; nor, to my

knowledge, has The City sought review of the report by any national security body.

9. In short, the report has been withheld strictly on the say-so of Mr. Beger, who as City Counselor has a vested interest in denying Ms. Hawley access to pertinent documents whose details might compromise The City's position. If the report is not classified, Ms. Hawley should be permitted to view it. It is far more likely, given The City's penchant for secrecy, that this is simply a ploy to keep embarrassing data from prying eyes.

10. If Ms. Hawley were allowed free access to all pertinent documents, it is very likely that she would be able to make far greater contributions to the understanding and planning for the future of the electric power supply of Rolla and Phelps County.

II The Motion to Deny contains ad hominem attacks upon Ms. Hawley

A. The City attempts to shred the Fifth and Sixth Amendment to the Constitution of the United States of America and set itself up as judge, jury and prosecutor in the Donna Hawley assault case.

11. In ¶ 23, Motion to Deny, The City argues that because Ms. Hawley has been charged with assault against an RMU official, she should not be permitted to intervene in these proceedings. Ms. Hawley has been convicted of nothing, and therefore loses none of her rights, including her right to intervene. Even if she had been convicted as charged of a third class misdemeanor, she would not lose her right to intervene. The City states, "The city employee [RMU employee, Dennis Roberts] was physically injured by her actions described in the Information", without even having the decency or honesty to use the word

"alleged".

12. It should be noted that this case was deliberately prolonged by Phelps County Prosecutor, Courtney George, who dismissed charges and then refiled them. It should also be noted that Ms. Hawley has been granted a change of venue due to the impossibility of receiving a fair trial in Phelps County.

13. Dennis Roberts, who Ms. Hawley is alleged to have assaulted, appears to be a strong healthy male. Ms. Hawley is disabled. Mr. Roberts walked around with a bandage on his wrist for weeks after this alleged incident. It is far more likely, assuming that Mr. Roberts was injured at all, that he injured himself pushing Ms. Hawley out of a meeting that should, according to the sunshine law, have been open to the public. RMU permitted a City Council member from Owensville to attend this meeting, and ejected only Ms. Hawley.

14. The Fifth and Sixth Amendments to the Constitution of the United States of America are reproduced below in Appendices I and II respectively.

B. The Rolla City Council, given its own behavior, has no right to censure anyone.

15. At the June 15, 2009 meeting of the Rolla City Council, during Citizen Comment Period, before the vote to censure was taken, I refuted many of the reasons put forth by the Council for censuring Ms. Hawley and pointed out that the behavior of other City Council members has been far and away more disruptive and unprofessional than anything that Ms. Hawley is accused of.

16. My comments which are reproduced in Appendix III include the fact that:

17. Council gives no instances in their Motion to Censure in which Ms. Hawley's statements: financial, legal or otherwise, were incorrect or exaggerated; nor of any specific instance of anything. The Motion to Censure is merely unsupported innuendo. On the other hand, in my comments on the Motion to Censure, I give instances in which the behavior of Council is far worse than anything they accuse Ms. Hawley of.

18. Council member, Terry Ruck, left a threatening message on Ms. Hawley's telephone on December 15, 2008 and Council refused to take any action against Mr. Ruck. That message is posted at <http://www.tomsager.org/Sound/ruck.html> and is included in this document by reference. A transcript of this phone message is included in Appendix III.

19. Council has made many egregious financial and legal errors: examples are given in my address to Council.

20. In response to a direct question, State Auditor, Susan Montee, confirmed the correctness of much of Ms. Hawley's criticism of RMU's investments in electric power.

21. I also noted that this is not the first time that The City has attempted to silence its critics through censure. On March 21, 2005, City Counselor, John Beger moved to sanction the attorneys for Citizens for the Preservation of Buehler Park for bringing a frivolous case to Court (Cause No. CV305-0352CC). The City lost the case ignominiously. The Court declared the City's arguments "hyper-technical and hollow." (Case SD28083).

22. Even after the Council voted to censure, harassment of Ms. Hawley

continued. At the December 21, 2009 City Council meeting, Council member, J.D. Williams, interrupted Ms. Hawley while she had the floor saying, "She needs to shut her mouth." No Council member objected to this breach of etiquette and Roberts Rules of Order. Mayor Jenks did not permit Ms. Hawley to complete her statement. (This 27 second exchange is posted on Youtube at <http://www.youtube.com/watch?v=xZq9SgNPbuY> and is included in this document by reference.)

III: The male members of the City of Rolla, RMU, and the Rolla Board of Public Works which oversees the operation of Rolla Municipal Utilities appear to particularly resent the involvement of a woman in this male-dominated field.

A. The Rolla Board of Public Works (henceforth RBPW) which oversees the operation of RMU is made up of four white males and has been a body of four white males for a long time, possibly since its inception.

23. The RBPW for as long as I can remember has not had a female or racial minority member, <http://www.rollamunicipalutilities.org/Page2.aspx?SId=6>. I have pointed out to Rolla Mayor, William S. Jenks III, on numerous occasions the need to integrate the RBPW. Mayor Jenks (and previous mayors) have appointed only males, all of which have been confirmed by the City Council. Board vice president, Mark Rolufs, appears to have no background or credentials that would prepare him to direct RMU and has brought up for discussion in a RBPW meeting alleged prophecies of Nostradamus and the Mayans that the world will end in 2012. (Short biographies of the members of RBPW are posted at <http://www.rollamunicipalutilities.org/Page2.aspx?SId=6> and included in this document by reference.)

24. Dr. James Stoffer, president of the RBPW, has spoken in open City Council meeting disparagingly of women. At the October 1, 2007 City Council meeting, Dr. Stoffer remarked of Ms. Tracey Watson who questioned the wisdom of RMU's contract with MoPEP, "The MoPEP Contract...Tracey's Comments, The worst contract she'd ever seen. Her exact words. My question is: is it also the best contract she's ever seen? She's a beautician. Maybe she's seen a bunch, I do not know."

25. Ms. Watson's response at the November 5, 2007 City Council meeting, is posted at <http://rollacity.org/admin/agenda/minutes/20071105-watson-statement.pdf>, and is included herein by reference. Note her statement, "By far the majority of citizens [that I spoke with over the weekend] are afraid to say anything to any of you for fear of being verbally attacked."

26. Significantly, there was no move by the City Council to demand that Dr. Stoffer apologize for the way he talked about Ms. Watson, much less a move to censure.

B. Due, at least in part, to the way the City has tormented Ms. Hawley, Rolla now has, for the first time in my memory, a City Council made up entirely of white males.

27. In both April 2009 and April 2010, Rolla elected a slate made up entirely of white males. Women who have served on the Rolla City Council in the past, most recently Ms. Susan Eudaly, have declined to run for reelection. Due, at least in part, to a smear campaign, of which The City's Motion to Deny Ms. Hawley status as intervenor, is a prime example, Ms. Hawley failed in her bid for reelection. No new women have chosen to seek election to city office, perhaps

due to the threatening, disparaging behavior that the Rolla City Council and the Rolla Board of Public Works have shown toward Ms. Hawley and Ms. Watson.

IV. Others Miscellaneous Considerations

A. Ms. Hawley should not be denied status to intervene due to technicalities.

28. The City states that Ms. Hawley's application to intervene should be denied due to technical anomalies in her application, (¶s 25-27, Motion to Deny). In making this request The City argues essentially that only those with a legal background or the financial resources to retain an attorney should be allowed access to The Commission. This is an elitist view of government which should be rejected.

29. It should be noted that The City put forth a similarly elitist view of the Missouri Courts, claiming for 11 years that residents, taxpayers, and park users had no standing to question the proposed sale of Buehler Park before the Courts. The Southern District Court of Appeals rejected the City's arguments, (case SD28083).

B. Ms. Hawley application to intervene should not be denied based on the City of Rolla's alleged financial need for a quick decision.

30. The city argues (¶s 3, 8 and elsewhere in Motion to Deny) that it will lose money if Ms. Hawley's application is granted. The City has a history of trying to make frivolous and vindictive arguments of this nature. In *Ours v. City of Rolla* (Cause No. CV397-0348CC) The City claimed losses of around \$35,000 due to the plaintiffs action and demanded restitution. The Courts ruled (Final Judgment,

May 23, 2000) that the City had lost nothing.

31. In point of fact, the City actually gained over \$100,000 because plaintiffs had saved the City from its own financial misdeeds. (The question before the Court, was simply whether or not the City had lost money due to plaintiffs actions.) If the past is indeed a good predictor of the future, then Ms. Hawley, if permitted to intervene, may truly save the City tens of thousands of dollars. In any case, by using this argument frivolously and vindictively in the past, the City should forfeit its right to demand quick judgment based on financial reasons.

Conclusion

32. Ms. Hawley's intervention would be in the public interest. She has done much research under difficult conditions, in spite of road blocks placed in her way by those who seek to have her application to intervene denied. Her intervention in these proceedings would cast light on an important subject whose details have been shrouded in secrecy. Her findings should be evaluated on their merit alone and not according to the whim of those who seek to deny her application to intervene.

33. For these reasons, I beg the Public Service Commission to grant Ms. Hawley's application to intervene as she requests.

Respectfully submitted,

A handwritten signature in black ink that reads "Thomas J. Sager". The signature is written in a cursive style with a large, sweeping flourish at the end of the name.

Thomas J. Sager
8 Laird Ave.
Rolla, MO 65401-3716
573-368-5551
yushasager@yahoo.com

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on May 11, 2010, to the following:

Kevin Thompson
Office of the General Counsel
Governor Office Building, 8th Floor
Jefferson City, Mo 65101
Kevin.thompson@psc.mo.gov

Lewis Mills
Office of Public Counsel
Governor Office Building, 6th floor
Jefferson City, MO 65101
lewis.mills@ded.mo.gov

Steven R. Sullivan
Thomas M. Byrne
Ameren Services Company
St. Louis, MO
ssullivan@ameren.com
tbyrne@ameren.com

James B. Lowery
Smith Lewis LLP
Columbia, MO
lowery@smithlewis.com

Donna D. Hawley
2602 Brook Dr.
Rolla, MO 64501
hawleyd@fidnet.com

Gary W. Duffy MBE #24905
BRYDON, SWEARENGEN & ENGLAND P.C.
312 E. Capitol Avenue
P. O. Box 456
Jefferson City, MO 65102
duffy@brydonlaw.com

Appendix I: Fifth Amendment to the Constitution of the United States of America

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Appendix II: Sixth Amendment to the Constitution of the United States of America

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district where in the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

Appendix III: My Comments on the Resolution to Censure Council Member Donna Hawley (presented at the Monday, June 15, 2009 meeting of Rolla City Council before vote to censure was taken)

As a resident of Johnson-Laird subdivision, I think I can speak for most of the residents of Johnson-Laird in thanking Council member Donna Hawley for her

support in opposing the commercial rezoning of residential property bordering our subdivision. Sadly, eight council members, including the three who today introduce a resolution to censure Council member Hawley, opposed our subdivision.

In their accusations against Ms. Hawley, Messers Morris, Barklage and Brown talk about her attendance at meetings; but do not mention the constant intimidation of Ms. Hawley by this body. [play Terry Ruck's message transcribed below.] Former Council member Terry Ruck, who left Ms. Hawley this message, has problems with drinking and anger and carried a not very well concealed firearm to Council meetings. Ms. Hawley is a single mother and on disability. This body declined to take any action that would make Ms. Hawley feel safe at Council meetings.

I find it strange that a body whose member has threatened to "have [Ms. Hawley's] ass in a hole," would then accuse Ms. Hawley of failure to treat people with respect and courtesy.

I also find it strange that a body that gave the Chamber of Commerce one quarter of a million dollars to build a welcome center on property that belonged neither to the city nor the chamber and then later purchased the welcome center from its owner at fair market value, would have the arrogance to criticize Ms. Hawley for drawing financial judgments with no training or qualifications. I find it even stranger that this City would continue to give money to the Chamber of Commerce after such a gross display of incompetence with public funds.

I also find it strange that a body that made Rolla the laughing stock of the Southern Judicial District by arguing before three appeals judges that using Buehler Park as a parking lot was the same thing as using Buehler Park for park purposes would accuse Ms. Hawley of drawing legal judgments without qualifications.

State Auditor, Susan Montee, at her presentation, which many Council members did not bother to attend, stated that Rolla could lose \$50 million in its investment in speculative electric power plants, plus an unknown amount of interest. Ms. Montee thus confirmed Ms. Hawley's financial analysis of Rolla's investments in electric power.

In addition, this body has denied Ms. Hawley access to pertinent documents, claiming the Council lacked the ability to understand the documentation. One has to wonder how people who, by their own admission, lack the ability to understand pertinent financial information and show no desire to learn how, can then turn around and claim that Ms. Hawley has made exaggerated conclusions.

Ms. Hawley has spent many hours researching these issues. Her accusers have done little or no research of their own, have blocked Ms. Hawley's access to

pertinent information, and fail in their accusations to mention even one single instance where Ms. Hawley's findings have not been correct.

This is not the City's first attempt to silence through censure. Three years ago, Mr. Beger moved to sanction the attorneys for the Buehler Park Preservation group for bringing a frivolous case to Court. The City lost the case ignominiously. The Court declared the City's arguments "hyper-technical and hollow." I would caution this Council that another attempt to silence your critics through censure could end with a similar result.

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**Transcript of message left by Council member Terry Ruck on
Council member Donna Hawley's answering machine**

December 15, 2008

Donna, this is Terry Ruck.

I just found out that you wanted to slander me in front of the City Council last night and an email, when you didn't have the balls to come see me first and talk to me what's going on.

I ain't even read the letter yet. I'm going to read it; and I tell you what, girl. I'm going to see my attorney and I'll have your ass in a hole.

You understand me?

How dare you!

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Note: Council voted 10 to 1 to censure Donna Hawley with Council member Donna Hawley not voting and Council member Jim Williams voting no after remarking, "I wouldn't give you the satisfaction!"