BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of Union Electric Company, d/b/a AmerenUE's Tariffs to Increase Its Annual Revenues for Electric Service	)))	**File No. ER-2010-0036** Tariff No. YE-2010-0054

REPORT AND ORDER

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CHIEF REGULATORY LAW JUDGE: Morris L. Woodruff

REPORT AND ORDER

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The Missouri Public Service Commission, having considered all the competent and substantial evidence upon the whole record, makes the following findings of fact and conclusions of law. The positions and arguments of all of the parties have been considered by the Commission in making this decision. Failure to specifically address a piece of evidence, position, or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision.

Summary

This order allows AmerenUE to increase the revenue it may collect from its Missouri customers by approximately $226.3 million based on the data contained in the Revised True-up Reconciliation filed by the Missouri Public Service Commission Staff on April 14, 2010.

C. Specifically, Commission Rule 4 CSR 240-3.161(3) establishes minimum filing requirements for an electric utility that wishes to continue its fuel adjustment clause in a rate case subsequent to the rate case in which the fuel adjustment clause was established. AmerenUE has met those filing requirements.

Decision:

The Commission concludes AmerenUE should be allowed to continue to implement the fuel adjustment clause the Commission approved in the company's last rate case. Given the short amount of time AmerenUE's fuel adjustment clause has operated and the resulting lack of information about how effective the current sharing mechanism has been, the Commission will not modify that clause, except as provided in the previously approved stipulation and agreement. The Commission expects to further review AmerenUE's fuel adjustment clause and the appropriate sharing mechanism to be included in that clause as part of AmerenUE's next rate case.

9. Rate Design and Class Cost of Service Issues

a. Rate Design

Findings of Fact:

Introduction:

1. After the Commission determines the amount of rate increase that is necessary, it must decide how that rate increase will be spread among AmerenUE's customer classes. The basis principle guiding that decision is that the customer class that causes a cost should pay that cost.

2. During the course of the hearing, Public Counsel, MIEC, AARP and the Consumers Council of Missouri, and the Missouri Retailers Association filed a nonunanimous stipulation

and agreement that reached an agreement on how the rate increase should be allocated to the customer classes. AmerenUE and Staff did not sign the stipulation and agreement but do not oppose the compromise agreement. MEUA, however, does oppose that agreement. Subsequently, the parties that signed the original stipulation and agreement submitted an addendum to that stipulation and agreement. MEUA also opposed the addendum.

3. Because the stipulation and agreement and the addendum to that stipulation and agreement are opposed, the Commission cannot approve the stipulation and agreement or the addendum. Nevertheless, the compromise described in the stipulation and agreement and addendum remains the position of the signatory parties and the Commission can consider that position as it decides this issue.

4. AmerenUE has seven customer classes.[266] The Residential class is comprised of residential households. The Small General Service and Large General Service classes are comprised of commercial operations of various sizes. The first three classes receive electric service at a low secondary voltage level. The Small Primary Service and the Large Primary Service are larger industrial operations that receive their electric service at a high voltage level. The Large Transmission Service class takes service at a transmission voltage level.

5. There is only one member of the Large Transmission class, Noranda Aluminum, Inc.[267] Noranda operates an aluminum smelter in Southeast Missouri and purchases

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[266] Cooper Direct, Ex. 134, Page 4, Lines 8-22.

[267] Staff's Class Cost-Of-Service and Rate Design Report, Ex. 205, Page 27, Lines 17-18.

massive amounts of electricity from AmerenUE. When the smelter is at full production, Noranda pays AmerenUE approximately $140 million per year for electricity[268]

6. AmerenUE's last customer class is the Lighting class, which consists of both area and street lighting.[269] The Lighting class has a unique load pattern in that it is on at night and, for the most part, off during the day. For that reason, its class load is typically very low during periods of peak demand.[270]

Specific Findings of Fact:

7. To evaluate how best to allocate costs among these customer classes, four parties prepared and presented class cost of service studies. The studies presented by AmerenUE and MIEC used versions of the Average and Excess Demand Allocation method (A&E). An A&E allocation method considers both the maximum rate of use (demand) and the duration of use (energy). The A&E method conceptually splits the system into an average component and an excess component. The average demand is the total kWh usage divided by the total number of hours in the year. This is the amount of capacity that would be required to produce the energy if it were taken at the same demand rate each hour. The system excess demand is the difference between the system peak demand and the system average demand. The average demand is allocated to the various classes in proportion to their average demand (energy usage). The difference between the system average demand and the system peak or peaks is then allocated to customer classes on the basis of a measure that represents their peaking or variability in usage [271]

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[268] Gregston Direct, Ex. 422, Page 3, Lines 5-14.

[269] Cooper Direct, Ex. 134, Page 4, Lines 15-16.

[270] Staff's Class Cost-Of-Service and Rate Design Report, Ex. 205, Page 12, Lines 15-16.

[271] Brubaker Direct, Ex. 429, Pages 23-24, Lines 15-22, 1-5.

8. Staff and Public Counsel also presented class cost of service studies, but they used a different allocation method known as a Peak and Average Demand Allocation method. Staff's allocation method is based on the assumption that an electric utility adds capacity to meet its entire load rather than to just meet its peak load demand.[272] Public Counsel also presented a second study using a time of use method.

9. The following chart compares the results of each of the class cost of service studies, indicating the percent change in class revenues required to equalize class rates of return, as well as the dollar amounts needed to bring a class to its indicated cost of service. A negative number means the class is paying more than its indicated share of costs. A positive number means the class is paying less than its indicated share. All dollar figures are in millions.

Study	Residential	Small General Service	Large General Service	Large Primary Service	Large Transmission Service
Staff - 4 CP A&P[273]	8.67% $83.5	-4.24% $(10.5)	-11.40% ($73.7)	-0.55% ($0.9)	3.57% $5.0
AmerenUE[274]	7.99% $78.0	-7.01% ($17.6)	-9.74% ($64.8)	1.21% $2.1	1.63% $2.3
OPC (TOU)	1.23% $11.8	-9.40% ($23.3)	-3.77% ($24.4)	8.80% $14.7	15.27% $21.2
OPC (A&P)[275]	3.35% $32.2	-7.60% ($18.9)	-4.69% ($30.3)	7.17% $12.0	3.56% $5.0
MIEC[276]	13.30% $129.6	-4.30% ($10.7)	-12.70% ($84.6)	-7.40% ($12.7)	-15.50% ($21.6)

[272] Scheperle Rebuttal, Ex. 207, Page 2, Lines 13-19.

[273] Ex. 553.

[274] Ex. 551.

[275] Ex. 552.

[276] Brubaker Revised Direct, Ex. 429, Schedule MEB-COS-5.

For example, Staff's study indicated the Residential class is currently paying $83.5 million less than AmerenUE's cost to serve that class. In contrast, according to Staff's study, the Large General Service class is currently paying $73.7 million more than AmerenUE's cost to serve that class. Although the exact numbers vary among the various studies, all the studies agree that the Residential class is currently paying substantially less than its cost of service and that the Large General Service class is currently paying substantially more than its cost of service.

10. In starting the process to develop just and reasonable rates, the first question the Commission must resolve is which of the submitted class cost of service studies best describes AmerenUE's cost to serve its various customer classes. As a first step, the Commission will discard the Staff and Public Counsel studies that utilize a Peak and Average Demand production demand allocation method.

11. Staff asserts that its Peak and Average Demand allocation method is superior to the Average and Excess method because it considers each class' contribution to the system's total peak rather than each class' excess demand at peak.[277] However, what Staff describes as its method's strength is actually its downfall because the Peak and Average demand method double counts the average demand of the customer classes.

12. Some customer classes, such as large industrials, may run factories at a constant rate, 24 hours a day, 7 days a week. Therefore, their usage of electricity does not vary significantly by hour or by season. Thus, while they use a lot of electricity, that usage does not cause demand on the system to hit peaks for which the utility must build or acquire additional capacity. Another customer class, for example, the residential class, will

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[277] Scheperle Rebuttal, Ex. 207, Page 5, Lines 11-14.

contribute to the average amount of electricity used on the system, but it will also contribute a great deal to the peaks on system usage, as residential usage will tend to vary a great deal from season to season, day to day, and hour to hour.

13. To recognize that pattern of usage, the Average and Excess method separately allocates energy cost based on the average usage of the system by the various customer classes. It then allocates the excess of the system peaks to the various customer classes by a measure of that class' contribution to the peak. In other words, the average and excess costs are each allocated to the customer classes once.

14. The Peak and Average method, in contrast, initially allocates average costs to each class, but then, instead of allocating just the excess of the peak usage period to the various classes to the cost causing classes, the method reallocates the entire peak usage to the classes that contribute to the peak. Thus, the classes that contribute a large amount to the average usage of the system but add little to the peak, have their average usage allocated to them a second time. Thus, the Peak and Average method double counts the average system usage, and for that reason is unreliable.[278]

15. Public Counsel also offered a time of use study that assigns production costs to each hour of the year that the specific production occurs. The method then sums each class' share of hourly investments based on only those hours when the class actually uses the system.[279] Public Counsel's time of use method is also unreliable because it considers every hour in the year to be a demand peak. As a result, the actual peaks in usage are given no additional weight. This, of course, benefits the residential class, which tends to

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[278] Brubaker Rebuttal, Ex. 430, Pages 12-14. See also, Transcript, Pages 3095-3096, Lines 24-25, 1-22.

[279] Meisenheimer Direct, Ex. 307, Page 7, Lines 5-7.

drive peaks, at the expense of industrial users of electricity that have high load factors and contribute little to the peaks in usage.[280]

16. Since the class cost of service studies offered by Staff and Public Counsel are unreliable, the Commission must choose between the Average and Excess method studies submitted by AmerenUE and MIEC. That task is difficult in this case because most of the testimony offered by AmerenUE and MIEC's witnesses criticize the methods used by Staff and Public Counsel and offer little criticism of each others studies. Yet, the studies do reach different results.

17. Significantly, MIEC's study tends to shift more cost causation from the Large General Service, Large Primary Service and especially the Large Transmission Service classes to the Residential class than does the AmerenUE study. AmerenUE's witness, William Warwick, explained those cost shifts in his rebuttal testimony.[281] In the allocation of transmission costs, non-fuel generation expenses, off-system sales revenue, and general plant, MIEC advocated modifications to AmerenUE's study that would tend to decrease the allocation of those costs to the large industrial customers who are the members of MIEC.[282] AmerenUE contends most of these adjustments are inappropriate.

18. However, AmerenUE's witness agrees that one of the adjustments proposed by MIEC's witness is credible. In his class cost of service study, MIEC's witness, Maurice Brubaker allocated revenues from off-system sales to customer classes on the basis of class energy (kWh) requirements.[283] Staff made a similar allocation of revenues in its class

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[280] Brubaker Rebuttal, Ex. 430, Page 18, Lines 12-19.

[281] Warwick Rebuttal, Ex. 147.

[282] Warwick Rebuttal, Ex. 147, Pages 2-8.

[283] Brubaker Direct, Ex. 429, Page 30, Lines 11-14.

cost of service study, and AmerenUE's witness concedes that such an allocation could be appropriate.[284] In addition, Brubaker's allocation is consistent with the methodology the Commission approved in a slightly different context in a recent Kansas City Power & Light rate case, ER-2006-0314.[285]

19. If AmerenUE's class cost of service study is modified to allocate revenues from off-system sales on the basis of class energy requirements, then that study would show that the large transmission service class is currently paying approximately 8 percent more than its indicated revenue share. The revised study would also show that the large general service class is overpaying by 11 percent and the residential class is underpaying by 11 percent.

20. After carefully considering all the studies, the Commission finds that AmerenUE's class cost of service study, modified to allocate revenues from off-system sales on the basis of class energy requirements, is the most reliable of the submitted studies.

21. Evaluating the submitted class cost of service studies is only the Commission's first step in designing just and reasonable rates for AmerenUE. In general, it is important that each customer class carry its own weight by paying rates sufficient to cover the cost to serve that class. That is a matter of simple fairness in that one customer class should not be required to subsidize another. Requiring each customer class to cover its actual cost of service also encourages cost effective utilization of electricity by customers by sending correct price signals to those customers.[286] However, the Commission is not required to precisely set rates to match the indicated class cost of service. Instead, the Commission

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[284] Warwick Rebuttal, Ex. 147, Pages 5-7.

[285] Brubaker Direct, Ex. 429, Page 30, Line 14.

[286] Cooper Direct, Ex. 134, Pages 16-17, Lines 13-22, 1-2.

has a great deal of discretion to set just and reasonable rates, and can take into account other factors, such as public acceptance, rate stability, and revenue stability in setting rates.

22. AmerenUE and, initially, Public Counsel, proposed that any rate increase should be allotted equally to each customer class. In other words, each class would receive the system average percentage increase.[287] That would leave the existing disparities revealed in the class cost of service studies unchanged.

23. Staff proposed that a small adjustment be made to shift $3 million in revenue responsibility from the large general service class to the residential class. Staff's adjustment would represent approximately a 0.3 percent increase in revenue responsibility to the residential class and a 0.5 percent decrease in revenue responsibility to the large general service class.[288]

24. MIEC proposed that each customer class be moved 20 percent toward its cost of service as shown in MIEC class cost of service study. That move would require a 2.6 percent revenue neutral increase from the residential class,[289] to collect $25.9 million in additional revenue from the residential class.[290] However, MIEC would not stop there: Brubaker also advocated that the Large Transmission class, whose only member is Noranda, be moved entirely to its cost of service as shown in MIEC's class cost of service

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[287] Cooper Direct, Ex. 134, Page 18, Lines 12-13. *See also*, Kind Direct, Ex. 300, Page 8, Lines 7-11.

[288] Staff's Class Cost-of-Service and Rate Design Report, Ex. 205, Page 24, Lines 8-15.

[289] Brubaker Revised Direct, Ex. 429, Page 36, Lines 13-19.

[290] Brubaker Revised Direct, Ex. 429, Schedule MEB-COS-6.

study. That extra movement would require an additional $8.2 million from the residential class and would reduce the rate relief that would otherwise flow to the other rate classes.[291]

25. Finally, MEUA, whose members take electric service as part of the large general service class, recommended the Commission adopt MIEC's proposed 20 percent revenue neutral adjustment, but without the extra adjustment to move the large transmission class to its cost of service.[292]

26. The stipulation and agreement to which MEUA objected would shift revenue responsibility to the residential, small general service and large primary service classes from the large transmission class and to a lesser extent, the large general service and small primary service classes. The addendum to the stipulation and agreement, to which MEUA also objected, would allocate a slightly larger revenue responsibility reduction to the large general service class.

27. Specifically, for an overall rate increase of $225 million, which is approximately the rate increase that will result from this order, the addendum to the stipulation and agreement would impose a roughly 1.5 percent revenue-neutral increase on the residential and small general service classes. That amounts to a revenue neutral increase of $14.5 million for the residential class and $3.8 million for the small general service class. It would also impose a 1.25 percent revenue neutral increase, amounting to an additional $2 million, on the large primary class.

28. On the other side of the coin, the large transmission class, whose only member is Noranda, would receive a revenue neutral reduction of 11.74 percent, which amounts to a reduction of approximately $16.3 million. That means Noranda would receive an actual

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[291] Brubaker Revised Direct, Ex. 429, Schedule MEB-COS-6.

[292] Chriss Rebuttal, Ex. 550, Page 11, Lines 3-12.

rate reduction of approximately $2.1 million, or a 1.54 percent overall reduction. That would occur while the residential class received an 11.70 percent rate increase. The large general service/small primary service class would receive a smaller revenue neutral reduction of 0.7%, amounting to $4.579 million. That means the large general service/small primary service class would receive an overall rate increase of 9.59 percent.

29. The reallocation of revenue responsibility the signatories agreed to in the stipulation and agreement, now their joint position, bears some resemblance to the results of AmerenUE's modified class cost of service study, which the Commission found to be the most reliable of the submitted studies. AmerenUE's study, and indeed, all the submitted studies, indicate that the residential class is paying substantially less than its actual revenue responsibility. The stipulated position would bring that revenue class closer to its actual cost of service. The stipulated position would also provide the large transmission service class, Noranda, with the largest rate reduction, even though AmerenUE's modified class cost of service study indicates the large general service class is currently overpaying its actual cost of service by a larger percentage.

30. MIEC, and in particular, Noranda, attempt to justify these results by claiming that Noranda needs special rate consideration to remain competitive with other aluminum smelters in the United States, lest it be forced to close, resulting in economic devastation to Missouri.

31. There is no doubt that the closure of Noranda's New Madrid aluminum smelter would have a severe impact on the economy of Southeast Missouri. Noranda directly employs some 900 people at its smelter, at an annual payroll of $60 million. Were the plant to close,

the Southeast Missouri region could lose over 3,200 jobs from its economy and state and local governments would lose $16 million per year in tax revenues.[293]

32. Noranda's aluminum smelter produces molten aluminum from aluminum oxide, known as alumina. The alumina is brought up the Mississippi river by barge for delivery to the smelter.[294] The processing of the alumina into aluminum requires a tremendous amount of electricity. When the smelter is at full production, at current electric rates, Noranda pays AmerenUE $140 million for electricity each year. The cost of electricity represents a little less than one-third of the smelter's cost of producing aluminum.[295]

33. Electricity is not the only cost factor affecting the continued viability of the New Madrid smelter, and MEUA demonstrated that the New Madrid smelter appears to possess certain competitive advantages over other competing smelters apart from the cost of electricity. For example, the smelter's geographic location on the Mississippi river reduces its cost to transport supplies of alumina.[296] If the market price of aluminum rises, Noranda may also benefit from paying a fixed rate for electricity while many of its competitors pay a rate for electricity that varies with the market price of aluminum.[297] Noranda expects that aluminum prices will rise in the future.[298] Still, while there is no evidence to indicate that Noranda is on the verge of shutting down its smelter with or without an electric rate increase, the smelter's long-term viability is dependent upon maintaining reasonably competitive electric rates.

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[293] Coomes Direct, Ex. 419, Page 2, Lines 4-12.

[294] Gregston Direct, Ex. 422, Page 1, Lines 12-17.

[295] Gregston Direct, Ex. 422, Page 3, Lines 5-14.

[296] Transcript, Page 2948, Lines 17-21.

[297] Transcript, Page 2948, Lines 2-7.

[298] Transcript, Page, 2959, Lines 1-5.

34. The large general service customer class is also currently paying more than its indicated revenue share and the stipulated position would provide that class with $4,579,000 of rate relief. But no evidence was presented that would show that the members of the large general service customer class need rate relief to remain competitive in the same way that Noranda needs that relief.

35. Clearly, Noranda will be affected by the rate increase that will result from this case. But the same can be said about all the other businesses and families that must pay AmerenUE for the electricity they need. The reduction proposed by the stipulated position would give Noranda an actual rate decrease of $2.147 million while all other customers have to absorb a rate increase. That result is inappropriate. While generally accepting the joint position, the Commission will modify that position to provide that the revenue neutral reduction in the large transmission service class's rate shall be set at a level that leaves that class' total revenue contribution unchanged. The joint position's revenue increase for the residential class shall be reduced by the amount taken from the large transmission class' revenue reduction. The lighting class' class revenue responsibility will be addressed in the next section of this report and order.

36. The objected to stipulation and agreement also purports to resolve certain issues regarding customer charges, Rider B voltage credits, and the Reactive Charge. No party, including MEUA, objects to that aspect of the stipulation and agreement.[299]

37. Specifically, the signatories agree that the residential customer charge should be set at $8.00 per month, with the remaining revenue assigned to the residential class to be allocated to volumetric charges. AmerenUE proposed that the residential customer charge

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[299] *See.* Initial Posthearing Brief of Midwest Energy Users Association, Page 11.

be increased to $10.00 per month from its current level of $7.25.[300] Staff recommended the residential customer charge be increased to $8.50 per month.[301] However, neither Staff nor AmerenUE objects to a residential customer charge of $8.00 per month. The Commission finds that $8.00 per month is a reasonable residential customer charge.

38. The signatories also agree as follows:

> the Small Power Service (SPS), Large Primary Service (LPS) and Large Transmission Service (LTS) customer charges should be set to $234.33, then those customer charges should be increased by the same percentage as the system average percentage increase, i.e., each will be increased by the same percentage and each will be the same. The signatories agree the rates for Rider B voltage credits (Tariff Sheet 99) should remain the same for all applicable rate schedules. The existing Rider B voltage credits should be increased by the same percentage as the system average percentage increase. The particular Rider B voltage credits as they now exist follow:
> - A monthly credit of $0.90/kW of billing demand for customers taking service at 34.5 or 69kV.
> - A monthly credit of $1.06/kW of billing demand for customers taking service at 115kV or higher.
>
> The Signatories agree the rate for the Reactive Charge should be the same for all applicable rate schedules and that the existing Reactive Charge should be increased by the same percentage as the system average percentage increase. The current Reactive Charge for SPS (Tariff Sheet 37), LPS (Tariff Sheet 67.1) and LTS (Tariff Sheet 68) classes are $027 per kVar. The Signatories agree the customer charge associated with Time-of-Day rates should be the same for all applicable non-residential rate schedules and that the existing Time-of-Day customer charge should be increased by the same percentage as the system average percentage increase. The current Time-of-Day customer charge for the Large General Service class (LGS)(Tariff Sheet 34), SPS (Tariff Sheet 37, LPS (Tariff Sheet 67.1) and LTS (Tariff Sheet 68) is $15.25. The Signatories agree the Small General Service class (SGS) customer charge should be $9.28 for single-phase service and $18.56 for three-phase service (Tariff Sheet 32). With the foregoing exceptions, all other rate elements within each rate schedule shall be increased by an equal percentage basis so that collectively all rate elements on that schedule are designed to collect the revenue assigned to the class to which that rate schedule applies.

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[300] Cooper Direct, Ex. 134, Page 21, Lines 1-7.

[301] Staff's Class Cost-of-Service and Rate Design Report, Ex. 205, Page 24, Line 18.

The agreed upon positions are generally consistent with the positions taken by Staff and AmerenUE and neither party has objected to those positions. The Commission finds that the agreed upon positions stated in the stipulation and agreement are reasonable and the Commission adopts those positions.

39. The signatories also agreed to adopt Staff's position that the following features should be returned to uniformity:

- The value of the customer charge be uniform across rate schedules, with the customer charges on the SPS, LPS, and LTS rate schedules being the same.
- The rates for Rider B voltage credits be the same under all applicable rate schedules.
- The rates for the Reactive Charge be the same for all applicable rate schedules.
- The rates associated with Time-of-Day meter charge be the same for all applicable non-residential rate schedules.[302]

Staff's testimony explained that these features had been uniform until implementation of the rate design in AmerenUE's last rate case. The Commission finds that the agreed upon position is reasonable and that position is adopted.

Conclusions of Law:

There are no additional conclusions of law for this issue.

Decision:

The Commission generally accepts the joint position, but will modify that position to provide that the revenue neutral reduction in the large transmission service class's rate shall be set at a level that leaves that class' total revenue contribution unchanged. The joint position's revenue increase for the residential class shall be reduced by the amount

[302] Staff's Class Cost-of-Service and Rate Design Report, Ex. 205, Page24, Lines 1-6.

taken from the large transmission class' revenue reduction. The lighting class' class revenue responsibility will be addressed in the next section of this report and order.

b. Street Lighting

Findings of Fact:

Introduction:

40. The members of the lighting class of customers largely consists of municipalities that purchase electricity from AmerenUE to light their streets at night. The lighting class has a unique load pattern in that the street lights are generally on only at night. That means street lights are drawing power when demand from other users tends to be low, and as a result the lighting class does not contribute much to peak demand. As previously discussed, peak demand tends to drive costs, so the lighting class does not fit well into a general class cost of service study.[303] For that reason, the class cost of service studies submitted by Staff and AmerenUE did not separately calculate the cost of serving the lighting class. Instead, their cost of service studies allocated all direct lighting costs and revenues to the other classes based on each class' share of AmerenUE's total cost-of-service.[304] That allocation method assumes that the company's rates for lighting service have been established at or near their cost of service,[305] but it does not actually determine whether that assumption is correct.

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[303] Staff's Class Cost-of-Service and Rate Design Report, Ex. 205, Page 12, Lines 15-21.

[304] Staff's Class Cost-of-Service and Rate Design Report, Ex. 205, Page 12, Lines 21-25.

[305] Staff's Class Cost-of-Service and Rate Design Report, Ex. 205, Page 13, Lines 1-3. *See also*, Warwick Direct, Ex. 146, Page 4, Lines 1-15.

41. The same allocation method was used in AmerenUE's last two rate cases, and no actual cost of service study has been done for the lighting class over that time.[306] AmerenUE may have last performed a comprehensive street lighting study sometime in the1980's but it has been unable to locate that study.[307] Since AmerenUE's cost to serve the lighting class has not been studied since at least the 1980's, the lighting class has simply been allocated the same across the board rate adjustments allocated to the other rate classes. AmerenUE and Staff would continue that practice in this case.

42. The lighting class has not been represented in AmerenUE's previous rate cases, but the Municipal Group intervened in this case to bring the lighting class' issues to the Commission's attention. In the First Stipulation and Agreement, filed on March 10, before the start of the hearing, the signatory parties agreed that AmerenUE would cooperate with all interested parties in preparing a cost of service study regarding the lighting class for use in the company's next rate case.[308] The Municipal Group did not sign that stipulation and agreement, but it did not oppose it, and the Commission approved the stipulation and agreement on March 24.[309]

43. Despite the stipulation and agreement's provision for a future class cost of service study, the Municipal Group continues to seek immediate relief in this case. Specifically, the Municipal Group seeks:

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[306] Transcript, Page 2871, Lines 3-20.

[307] Transcript, Page 2872, Lines 1-4.

[308] First Nonunanimous Stipulation and Agreement, Page 7.

[309] In the Matter of Union Electric Company, d/b/a AmerenUE's Tariffs to Increase Its Annual Revenues for Electric Service, File No. ER-2010-0036, Order Approving First Stipulation and Agreement (March 24, 2010).

1. A moratorium on any new street lighting rates under the 5M and 6M tariffs pending the outcome of the cost of service study and its introduction in AmerenUE's next rate case, or, in the alternative that AmerenUE hold in escrow any increase ordered for the 5M and 6M street lighting rates pending the review of the street lighting cost of service study in AmerenUE's next rate case; and
2. The elimination of any future pole installation charges from 5M customer bills until such pole installation charges can be justified in AmerenUE's next rate case; and
3. A credit for the 5M customers for all other revenues received by AmerenUE for itself and other entities for their use of these same poles for telephone, cable TV, electric distribution lines, etc.[310]

Specific Findings of Fact:

44. AmerenUE currently collects roughly $31 million per year system-wide from the lighting class.[311] That represents about 1.4 percent of the company's total base rate revenues.[312] The company collects a part of that revenue from its 5M and 6M rates for street lighting, but the exact amount AmerenUE collects under those two particular rates is not revealed in the record.

45. The 5M classification is for street lights that are owned and maintained by AmerenUE. Those street lights are not metered. Instead, the 5M customer is billed by

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[310] Initial Brief of the Municipal Group, Pages 10-11.

[311] Transcript, Page 2869, Lines 6-15.

[312] Warwick Direct, Ex. 146, Page 4, Lines 11-12.

fixture and pole type according to the number of lights in each rate category.[313] The street lighting bill can be a significant expense for a municipality. For example, the City of University City budgets approximately $640,000 per year for 5M street lighting.[314] The 6M classification covers metered and unmetered street lighting that is owned by the customer rather than AmerenUE.[315]

46. After comparing the 5M rate to the 6M rate, the Municipal Group contends it is being overcharged for maintenance portion of the 5M rate.[316] The Municipal Group also contends it is being overcharged under the 5M rate for pole installation charges for poles installed before 1988. The Municipal Group claims that having collected an installation charge for more than 20 years, AmerenUE should have recovered its installation costs by now.[317]

47. Finally, the Municipal Group notes that AmerenUE collects revenue from other entities for various installations added onto the street lighting poles, such as cable TV lines. The municipalities contend that since they are in effect renting the poles, they should receive a cut of that revenue.[318] AmerenUE explains that it accounts for that extra revenue as an offset to its base rate revenues in its rate cases. In other words, a dollar collected from a cable company for hanging a line on a light pole would be a dollar the company would not collect from its customers, including the lighting customers.[319] Thus, the Commission finds that those revenues do, at least indirectly benefit the lighting customers.

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[313] Eastman Rebuttal, Ex. 750, Page 4, Lines 3-13.

[314] Eastman Rebuttal, Ex. 750, Page 4, Lines 15-17.

[315] Eastman Rebuttal, Ex. 750, Page 6, Lines 11-14.

[316] Eastman Rebuttal, Ex. 750, Page 9-11.

[317] Eastman Rebuttal, Ex. 750, Page 14, Lines 5-18.

[318] Transcript, Pages 2878-2880.

[319] Transcript, Page 2878, Lines 11-20.

48. AmerenUE generally denies that it is overcharging its lighting customers, but concedes that there is no specific cost study to support those rates. That deficiency should be corrected by the completion of such a cost study for the development of rates in the company's next rate case. The Municipal Group claims that pole installation charges are unfair, but could offer nothing other than speculation to prove that contention. Since there is no basis at this time to conclude that the current rates are not justified, the Commission will not eliminate future pole installation charges at this time. But the fairness of those charges should become clearer after completion of the costs study and may be revisited in the next rate case.

49. The record does not indicate the amount of revenue AmerenUE collects from 5M and 6M rates apart from the general lighting revenue numbers. Therefore, the Commission cannot exempt just the 5M and 6M ratepayers from the increased rates that will result from this rate case. However, because no class cost of service study has examined the lighting class since at least the 1980s, the entire class has been given rates that may or may not bear any resemblance to the cost to serve that class. The lighting class is only a small part of AmerenUE's entire customer base, but street lighting is a significant cost for the municipalities that take that service. Under the circumstances, the Commission will exempt the entire lighting customer class from the rate increase that will result from this report and order.[320]

50. The lighting class currently generates $31.295 million in revenue for AmerenUE. The roughly 10.2 percent system average rate increase that will result from this case would

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[320] The Municipal Group's alternative proposal to have AmerenUE hold the rate increase collected from the lighting group in escrow, subject to refund, would not be fair to AmerenUE because, if the lighting group's rates were found to be too high, the company would not be able to go back and collect any revenue shortfall after the fact from the other customer classes.

generate an additional $3.2 million in revenue from the lighting class. AmerenUE shall instead collect that $3.2 million of revenue from the other rate classes on a pro rata basis.

Conclusions of Law:

There are no additional conclusions of law for this issue.

Decision:

The entire lighting class is exempted from the rate increase that will result from this report and order. The additional revenue that would have been collected from the lighting class under a system average rate increase shall instead be collected from the other rate classes on a pro rata basis. The adjustments necessary to exempt the lighting class shall be made after the general adjustments made pursuant to section 9a of this Report and Order.

IT IS ORDERED THAT:

1. The tariff sheets filed by Union Electric Company, d/b/a AmerenUE on July 24, 2009, and assigned tariff number YE-2010-0054, are rejected.

2. Union Electric Company, d/b/a AmerenUE is authorized to file a tariff sufficient to recover revenues as determined by the Commission in this order. AmerenUE shall file its compliance tariff no later than June 8, 2010.

3. This report and order shall become effective on June 7, 2010.

BY THE COMMISSION

(S E A L)

Steven C. Reed
Secretary

Davis, C., concurs, with concurring opinion to follow,
Jarrett, Gunn, and Kenney, CC., concur,
Clayton, Chm., dissents, with dissenting opinion to follow.
and certify compliance with the provisions
of Section 536.080, RSMo.

Dated at Jefferson City, Missouri,
on this 28th day of May, 2010.