

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

In the Matter of Union Electric Company d/b/a)
AmerenUE for Authority to File Tariffs Increasing)
Rates for Electric Service Provided to Customers) Case No. ER-2008-0318
In the Company's Missouri Service Area.)

STAFF'S STATEMENTS OF POSITION AND MOTION FOR LEAVE TO FILE LATE

Comes now the Staff of the Missouri Public Service Commission (Staff) and states its positions on the issues listed in the List of Issues filed in this case on November 12, 2008 and moves the Commission for leave to file its position statements late as follows:

1. By Order dated November 12, 2008 the Commission extended the dates the Commission had established in its Order dated May 29, 2008 for the filing of List of Issues and Statements of Positions from Monday, November 10 to Wednesday November 12 and from Wednesday, November 12 to Thursday, November 13, 2008, respectively.

2. Despite the extension, the Staff was unable to timely file its statements of position. Counsel assigned to this case have endeavored to stay current with several cases pending before the Commission requiring large time commitments this week, including this case where the list of issues was not agreed to by the parties until late November 12th and depositions of Staff witnesses were taken November 13th and 14th. As a consequence, counsel assigned to this case were unable to meet Thursday's extended filing deadline in the instant case.

3. Staff does not request leave to late-file its statements of position to delay these proceedings or inconvenience the Commissioners, Regulatory Law Judges, AmerenUE, or the other parties. Undersigned counsel apologizes for any inconvenience that this late filing has caused or may cause.

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4. For ease, following is the List of Issues filed November 12, 2008 with the Staff's statement of the Staff's position on each issue appearing immediately following the statement of the issue:

1. **Overview and Policy:** Overview of "cost of service," and / or what policy considerations, if any, should guide the Commission in deciding this case?

Staff's position: The Staff's cost of service for AmerenUE reflects the appropriate revenue requirement for setting rates in this case.

2. **Return on Equity:** What return on equity should be used in determining revenue requirement?

Staff's position: A return on equity within the range of 9.00% to 9.75%, with a specific recommendation of 9.50%, is reasonable.

Capital Structure: What capital structure should be used?

Staff's position: A reasonable capital structure is 50.9% common equity, 1.8% preferred stock and 47.3% total debt.

3. **Vegetation Management and Infrastructure And Repair:**

- a. **Vegetation Management:**

- i. What level of vegetation management expense is appropriate for recognition in AmerenUE's revenue requirement in this case?

Staff's position: The actual level of vegetation management expense AmerenUE incurred during the test year, as trued-up through September 30, 2008.

- ii. Should AmerenUE's revenue requirement in this case include a three year amortization of vegetation management expense from January 1, 2008 to June 30, 2008 that is in excess of the \$45 million annual level that was included in AmerenUE's revenue requirement for Case No. ER-2007-0002?

Staff's position: No. The Commission approved a one-way tracker in Case No. ER-2007-0002, which remains in effect until the effective date of rates in AmerenUE's current rate case. This tracker does not allow for additional recovery through amortizations while the tracker is in effect. In addition, the Commission's rule regarding vegetation management did not become effective until June 30, 2008.

- iii. Should AmerenUE's revenue requirement in this case include a three year amortization of vegetation management expense from July 1, 2008 to

September 30, 2008 that is in excess of the \$45 million annual level that was included in AmerenUE's revenue requirement for Case No. ER-2007-0002?

Staff's position: No. The Commission approved a one-way tracker in Case No. ER-2007-0002, which remains in effect until the effective date of rates in AmerenUE's current rate case. This tracker does not allow for additional recovery through amortizations while the tracker is in effect.

- iv. Should accounting authority be granted for vegetation management expense incurred from October 1, 2008 to February 28, 2009 in excess of the \$45 million annual level that was included in AmerenUE's revenue requirement for Case No. ER-2007-0002, with this cost being deferred for treatment in AmerenUE's next rate case?

Staff's position: No. The Commission approved a one-way tracker in Case No. ER-2007-0002, which remains in effect until the effective date of rates in AmerenUE's current rate case. This tracker does not allow for the additional deferral proposed by AmerenUE.

- v. Should a tracker be implemented for vegetation management expense that exceeds the level of vegetation management expense the Commission recognizes in AmerenUE's revenue requirement in this case? Should such a tracker be implemented for the one-year period of March 1, 2009 to February 28, 2010?

Staff's position: Yes, the Commission should authorize AmerenUE to implement a tracker starting at the level of vegetation management expense the Commission recognizes in AmerenUE's revenue requirement in this case. The tracker should include a cap on expenses. The tracker should be implemented for the one-year period of March 1, 2009 to February 28, 2010.

b. Infrastructure Inspection And Repair:

- i. What level of infrastructure inspection and repair expense is appropriate for recognition in AmerenUE's revenue requirement in this case?

Staff's position: The Commission should include AmerenUE's calendar year 2009 budgeted level of infrastructure inspection expense in AmerenUE's revenue requirement. The true-up level of infrastructure repair expenses should also be included in AmerenUE's revenue requirement. This is three times the amount that AmerenUE incurred during the test year for infrastructure inspections and repairs. Additional infrastructure repair expenses should not be included since the rule specifically identifies "expenses as a result of this rule in excess of the costs included in current rates" and the Staff contends that many of the repairs would be made during AmerenUE's normal course of business.

- ii. Should AmerenUE's revenue requirement in this case include a three year amortization of infrastructure inspection and repair expense from January 1, 2008 to June 30, 2008?

Staff's position: No. The Commission's rule regarding infrastructure inspection and repairs did not go into effect until June 30, 2008.

- iii. Should AmerenUE's revenue requirement in this case include a three year amortization of infrastructure inspection and repair expense from July 1, 2008 to September 30, 2008?

Staff's position: No. The Staff instead proposes that the incremental cost of inspections from July 1, 2008 through September 30, 2008, in excess of the amount in the test year, be combined with subsequent amounts included in the tracker discussed in (v). As discussed in (i), the amount of infrastructure repairs should reflect the September 30, 2008 true-up level.

- iv. Should accounting authority be granted for infrastructure inspection and repair expense incurred from October 1, 2008 to February 28, 2009, with these costs being deferred for treatment in AmerenUE's next rate case?

Staff's position: Yes, for infrastructure inspection expense only, the Staff proposes that the incremental amount in excess of the true-up level be included in the tracker discussed in (v). As discussed in (i), the amount of infrastructure repairs should reflect the amount should reflect the September 30, 2008 true-up level.

- v. Should a tracker be implemented for infrastructure inspection and repair expense that exceeds the level of infrastructure inspection and repair expense the Commission recognizes in AmerenUE's revenue requirement in this case? Should such a tracker be implemented for the one-year period of March 1, 2009 to February 28, 2010?

Staff's position: Yes for infrastructure inspections only. Yes, the implementation period should be March 1, 2009 to February 28, 2010. This tracker should include the incremental inspection cost incurred above the true-up level. This tracker should also include the incremental inspection cost incurred above, as described in (iii) and (iv).

- 4. **January 13, 2007 Ice Storm Accounting Authority Order (AAO):** In Case No. EU-2008-0141, the Commission authorized AmerenUE an AAO for the extraordinary costs of the January 13, 2007 Ice Storm but deferred to this case the determination of the starting date of the five-year amortization of the deferred costs. What should be the start date of the five year amortization?

Staff's position: The five-year amortization of the \$24.56 million in extraordinary costs AmerenUE incurred due to the January 13, 2007 Ice Storm should begin at or near the

time AmerenUE incurred the costs. AmerenUE booked its very close estimate of the final storm costs by January 31, 2007; therefore, it is the Staff's position the amortization of these ice storm costs should begin by no later than February 1, 2007. Selecting a later date—such as the effective date of rates established in this case—has the effect of eliminating the regulatory lag associated with these extraordinary costs and providing almost certainty of recovery of more than the \$24.56 million of costs incurred. The purpose of an AAO is not to eliminate the financial risk to a utility of extraordinary events, but to ameliorate the financial impacts on the utility when such an event occurs. If adopted, the Staff's position—to begin the amortization on February 1, 2007—AmerenUE will not only have the opportunity to recover the full \$24.56 million of costs it incurred, it may also recover more than \$24.56 million.

5. **Deferred Income Taxes:** Three items included by AmerenUE in the deferred income tax balance offset to ratebase relating to deductions taken by AmerenUE on prior tax returns may be disallowed by the IRS, but there will not likely be a final IRS ruling before 2011. Should these uncertain tax positions be included or excluded from the determination of AmerenUE's revenue requirement in this case?

Staff's position: It is the Staff's position that as long as AmerenUE continues to enjoy the benefits of prior year tax deductions—despite its concern those deductions may be disallowed by the IRS in the future—the deferred taxes associated with those deductions should continue to be an offset to AmerenUE's rate base used in the calculation of AmerenUE's revenue requirement. Here AmerenUE recorded three income tax deductions on prior year income tax returns that reduced the amount of income taxes it paid during those years. As a result the Company properly recorded ** [REDACTED] ** of associated deferred income tax reserves. Since AmerenUE has enjoyed the use of these funds it did pay in taxes due to the deductions, these deferred taxes should appropriately be used to offset rate base for ratemaking purposes. Based on the Staff's rate of return, this rate base offset reduces the revenue requirement calculation by approximately ** [REDACTED] **.

6. **Entergy Arkansas Equalization Costs in SO₂ or Other Tracker:** Should AmerenUE be required by the Commission to accumulate in its SO₂ or some other tracker refunds it may prospectively receive relating to the Entergy Equalization costs?

Staff's position: AmerenUE entered into a ten-year purchased-power service agreement with Entergy Arkansas in 1999. AmerenUE states that it agrees that it is obligated to pay Entergy Arkansas its invoiced charges under the 1999 service agreement; however AmerenUE is disputing before the FERC, additional charges associated with the pass through of production cost equalization payments made by Entergy Arkansas to its Entergy Operating Company affiliates based upon a previous FERC ruling addressing a complaint filed by the Louisiana Public Service Commission. As a result of the FERC ruling, Entergy Arkansas has allocated and invoiced AmerenUE for its alleged share of the equalization payments that Entergy Arkansas makes to the other Entergy Operating Companies. AmerenUE is appealing this decision before the FERC; and the FERC has not yet rendered a final ruling on this case.

AmerenUE first invoiced the effect of the equalization payments to AmerenUE in July 2007 for service beginning in June 2007. Consistent with how AmerenUE treated them, the Staff included these additional equalization charges in the Staff's production cost modeling; and these costs are included in the Staff's calculation of AmerenUE's cost of service. Furthermore, during the test year, AmerenUE incurred an additional ** [REDACTED] ** related to external legal services and related expenses in an effort to obtain a refund of these costs as part of its dispute currently before the FERC. The Staff has not made any adjustment to remove the ** [REDACTED] ** test year amount of external legal costs from the Staff's cost of service calculation. Therefore, because AmerenUE's ratepayers will pay for Entergy costs, in addition to the external legal costs that AmerenUE has incurred in an attempt to obtain a refund, all as part of the rates that will be established for this case, AmerenUE's ratepayers should also receive recognition for any refund that AmerenUE ultimately receives. The Staff is not proposing any cost of service treatment for these potential refunds as part of this rate proceeding, or in any future rate proceeding. Instead, the Staff is requesting that the Commission direct AmerenUE to track any such refunds as part of the established SO₂ tracker that both AmerenUE and the Staff have agreed to continue as part of this rate proceeding, or through a separate "Entergy Refund Tracker" that accounts for all refunds that AmerenUE ultimately receives. Tracking these refunds will preserve them so they can be appropriately addressed as part of a future AmerenUE rate case proceeding.

7. Off-System Sales:

- a. **Off-System Sales Margin:** What amount of off-system sales margin is appropriate for recognition in AmerenUE's revenue requirement in this case?

Staff's position: The appropriate amount of off-system sales margin to recognize in AmerenUE's revenue requirement in this case is \$260,906,305. This estimated amount is the difference between Staff's production cost model results of AmerenUE's fuel and purchased power costs, with and without off-system sales.

- b. **Natural Gas and Purchased Power / Market Energy Prices:** What are the appropriate natural gas and purchased power / market energy prices to use in this case for purposes of inputs into the production cost models of AmerenUE and the Staff?

Staff's position: The appropriate natural gas and purchased power / market energy prices to use as inputs into the production cost models are the actual hourly energy prices and natural gas dispatch prices that occurred in the test year because these prices accurately reflect market conditions during the test year. However, the actual hourly energy prices in June and July 2008 during the true up period are the highest on-peak average monthly prices for these two months of the year since the operation of the Midwest ISO energy markets began. To normalize for this abnormality, the hourly energy prices to use for June and July in the true-up period should be the average of the June and July energy prices for 2007 and 2008 and, for consistency, the natural gas

dispatch prices used for the true-up for June and July should also be the average of the June and July natural gas prices for 2007 and 2008.

- c. **Prior Period Taum Sauk Capacity Sales:** Should there be an adjustment to hold customers harmless from the adverse effects of the failure of the Taum Sauk pumped storage unit with regard to foregone capacity sales in prior periods?¹

Staff's position: No. The Company was not able to sell all of its excess capacity in any period in 2006 and the capacity sales documentation available on January 1, 2007, did not indicate that AmerenUE would be able to sell all of its excess capacity during any period in 2007. Therefore, had this item been examined as part of the true-up in Case No. ER-2007-0002, Staff does not believe it would have proposed an adjustment to impute Taum Sauk capacity sales

- d. **Non-Taum Sauk Capacity Sales:** What level of non-Taum Sauk capacity sales revenues should be included in AmerenUE's off-system sales?

Staff's position: The level of non-Taum Sauk capacity sales revenues that should be included in AmerenUE's off-system sales is the level of capacity sales, as of the end of the test year, that were contracted through September 30, 2008.

- e. **Taum Sauk Capacity Sales:** What level of Taum Sauk capacity sales revenues should be included in AmerenUE's off-system sales?

Staff's position: The level of Taum Sauk capacity sales revenues that should be included in AmerenUE's off-system sales should be based on selling all of the capacity of Taum Sauk for four (4) months when AmerenUE has sold all its other excess capacity, at prices based on an RFP issued by Ameren Energy. That level is \$4.9 million.

- f. **Non-Asset Based Trading Margins:** Should the margins associated with non-asset-based trading of wholesale capacity and energy products be included in the calculation of AmerenUE's Missouri jurisdictional revenue requirement?

Staff's position: The Staff has no position on this issue.

8. **Fuel Adjustment Clause (FAC):**

- a. **FAC** – Should the Commission approve AmerenUE's proposed fuel adjustment clause, should the Commission approve a FAC with modifications for AmerenUE, or should the Commission reject the authorization of a FAC for AmerenUE.

Staff's position: The Commission should not authorize a FAC for AmerenUE because AmerenUE has not shown that its fuel and purchased power costs satisfy the three criteria

¹ OPC sought the establishment of Case No. ER-2008-0015, which was consolidated with Case No. ER-2008-0318.

the Commission has used in previous cases to determine whether to authorize a FAC for an electric utility that requested authority to use a FAC.

- b. **FAC Structure** – If the Commission authorizes a FAC for AmerenUE, what are the proposals of the various parties for fuel and purchased power cost recovery pursuant to a FAC to be adopted for AmerenUE?
- i. AmerenUE proposal - 95% of the difference between actual fuel and purchased power costs, net of off-system sales and the cost included in base rates
 - ii. MIEC proposal - 80% / 20%, with an annual limit plus or minus 50 basis points impact
 - iii. State proposal - 80% / 20%
 - iv. OPC proposal – 50% / 50%

Staff's position: The Staff has no position on this issue.

- c. **FAC Structure – Accumulation periods per year.** If the Commission authorizes a FAC for AmerenUE, should there be four-month accumulation periods (three per year) or six-month accumulation periods (two per year) during which the variations from the base fuel costs are accumulated for later recovery subject to the tracking provisions?

Staff's position: If the Commission authorizes a FAC for AmerenUE, it should require two six month accumulation periods a year. AmerenUE's major fuel cost is for coal and, for the most part, its coal price increases only once a year. In addition, limiting the number of accumulation periods will reduce customer confusion by limiting the number of times a year customers' rates change.

- d. **FAC Structure – Length of recovery periods.** If the Commission authorizes a FAC for AmerenUE, should there be twelve-month recovery periods or six-month recovery periods?

Staff's position: Staff has no preference on the length of the recovery periods.

- e. **FAC Structure – Outage replacement power costs/risk management.** If the Commission authorizes a FAC for AmerenUE, should ratepayers bear the effects of the cost of replacement power in the context of major unit outages?

Staff's position: The Staff has no position on this issue.

- f. **FAC Structure – Treatment of Taum Sauk.** If the Commission authorizes a FAC for AmerenUE, how should the absence of Taum Sauk generation be treated?

Staff's position: The Staff has no position on this issue.

- g. **FAC Structure – Timing of recovery periods.** If the Commission authorizes a FAC for AmerenUE, shall the recovery periods be timed to reduce the number of rate changes within a year?

Staff's position: Yes. To reduce customer confusion, if the Commission authorizes a FAC for AmerenUE, the accumulation and recovery periods should be timed to minimize the number of rate changes within a year.

FAC Structure – Recovery of fuel cost accumulations. If the Commission authorizes a FAC for AmerenUE, should the recovery (or return) of the difference between the base fuel and the actual fuel cost be billed on a calendar or billing month basis?

Staff's position: If the Commission authorizes a FAC for AmerenUE, the recovery (or return) of the difference between the base fuel and the actual fuel cost should be on a billing month basis.

FAC Structure – Base fuel and purchased power cost. If the Commission authorizes a FAC for AmerenUE, should there be a single annual average base cost or a seasonal average base cost?

Staff's position: If the Commission authorizes a FAC for AmerenUE, the base cost of fuel and purchased power should be determined on a seasonal basis consistent with the months comprising the AmerenUE summer and winter seasons.

FAC Structure – FAC tariff sheet. If the Commission authorizes a FAC for AmerenUE, should the tariffed FAC schedule include the Fuel and Purchased Energy Cost Adjustment(s) currently in effect and a tariff sheet detailing the calculation of the rate?

Staff's position: If the Commission authorizes a FAC for AmerenUE, the tariffed FAC schedule should include the Fuel and Purchased Power Energy Costs Adjustment(s) and a tariff sheet detailing the calculation of the rate.

FAC Content – Costs/Revenues to be included. If the Commission authorizes a FAC for AmerenUE, what costs/revenues should be included in the FAC?

Staff's position: If the Commission authorizes a FAC for AmerenUE, all of the costs AmerenUE proposes to include in the FAC should be included, except for replacement power insurance costs and ash disposal costs; and all of the revenues AmerenUE

proposes be included in the FAC should be included, except replacement power insurance recoveries and ash disposal sales.

FAC – Additional Information. If the Commission authorizes a FAC for AmerenUE, should AmerenUE be required to submit information in addition to what is required by 4 CSR 240-3.161(5) and (6)? If so, what additional information should AmerenUE be required to provide?

Staff’s position: If the Commission authorizes a FAC for AmerenUE, the Commission should require AmerenUE to submit to the Commission the additional information detailed in the rebuttal testimony of James C. Watkins beginning on page 5 line 23 through page 6 line 9.

h. **FAC Heat Rate Tests / Efficiency Tests Requirements.** If the Commission authorizes a FAC for AmerenUE, has AmerenUE met the heat rate tests/efficiency tests minimum filing requirement 4 CSR 240-3.161(2)(P)?

Staff’s position: If the Commission authorizes a FAC for AmerenUE, the heat rate tests/efficiency tests and schedule as agreed to by Staff and AmerenUE and attached as Schedule 2 to the rebuttal testimony of Staff witness Michael E. Taylor meet the minimum filing requirement 4 CSR 240-3.161(2)(P).

9. **Callaway Unit II Combined Construction And Operating License Application (COLA) Costs:** Should or can the costs of the combined construction and operating license application to the Nuclear Regulatory Commission for the prospective Callaway II unit be recovered in rates by AmerenUE? Can any such recovery proceed without a determination of public convenience and necessity or does AmerenUE intend to rely on the 1975 certificate?

Staff’s position: The Company proposes to include in plant in service the cost of the Callaway II combined construction and operating licensing application. The Staff opposes this inclusion. The application/licensing process has not been completed. The application has been sent to the NRC, but a license, if granted, is not expected until 2011. What AmerenUE proposes is not consistent with procedures previously followed in Missouri. Section 393.135, RSMo. 2000, provides:

Any charge made or demanded by an electrical corporation for service, or in connection therewith, which is based on the costs of construction in progress upon any existing or new facility of the electrical corporation, or any other cost associated with owning, operating, maintaining, or financing any property before it is fully operational and used for service, is unjust and unreasonable, and is prohibited.

10. **MISO² Day 2:** Should AmerenUE recover in cost of service Revenue Sufficiency Guaranty resettlement costs for prior years?

² Midwest Independent Transmission System Operator, Inc. (MISO)

Staff's position: During the test year, the expense associated with participation in the MISO Day 2 market was increased due to RSG resettlement that ended in November. The Company adjusted the expenses to amortize the cost over two years. The Staff reduced the expense level for the entire amount of the RSG resettlement that occurred in the test year because the resettlement of RSG cost is complete and is no longer in effect as of November. The test year level of expense is overstated as an ongoing cost. Both the Staff and the Company eliminated a meter error that caused the test year expense level to be lowered.

11. **Incentive Compensation and Restricted Stock Compensation / Performance Share Unit Plans:**

- a. **Incentive Compensation:** AmerenUE eliminated from cost of service the Executive Incentive Plan for Officers that is awarded on the basis of earnings per share performance. Should AmerenUE recover the costs of all other incentive compensation programs?

Staff's position: Because almost all of AmerenUE's incentive compensation was based on earnings per share (EPS) or other financial measures, non-specified award criteria, subjective performance measures, performance criteria that does not ensure improvement or performance below targeted goals, almost all incentive compensation should be excluded from AmerenUE's revenue requirement.

- b. **Restricted Stock Compensation / Performance Share Unit Plans:** Should AmerenUE recover the costs of the Restricted Stock Compensation / Performance Share Unit plans?

Staff's position: Because AmerenUE's Restricted Stock Compensation / Performance Share Unit plans are based solely on shareholder return, the costs of these plans should not be included in AmerenUE's revenue requirement.

12. **Depreciation:** Should depreciation rates for the plant accounts for the Callaway I nuclear generating station be adjusted, based on less than a full depreciation study of all plant accounts, to use the actual book accumulated depreciation reserve amounts, which adjustment would amortize an over accrual of the nuclear depreciation reserve accounts, i.e., the difference between the actual book accumulated depreciation and the theoretical accrued depreciation, on the basis that the Callaway I plant will be relicensed for an additional 20 year term?

Staff's position: No. It is the Staff's position that changing depreciation rates based on over or under accruals of the depreciation reserve should only be made in the context of a complete depreciation study where the over or under accrual of the depreciation reserve associated with each plant account is examined, unless the over or under accrual in question is so large an adjustment should be made sooner. The over accrual of the depreciation reserve associated with the subset of plant accounts for the Callaway I

nuclear generating station is not sufficient to warrant adjusting depreciation rates without first performing a complete depreciation study involving all the plant accounts.

13. **Demand Side Management (DSM):** In Case No. ER-2007-0002, AmerenUE was ordered by the Commission to book the costs of acquiring demand side management resources in a regulatory asset account. Should the Commission require netting of revenues for only demand response programs, or should netting apply to all demand side management resources?

Staff's position: The intent of a Regulatory Asset Account (RAA) is to recover DSM costs, and a return on those costs, in rates through the rate case process. Net expenditures for DSM programs, whether they are demand response or energy efficiency programs, which have an immediate increase in revenue to the Company should be booked as *net expenditures*.

14. **Low-Income Weatherization Program:** Should AmerenUE provide an additional \$300,000 for funding the current low-income weatherization program for the full amount directed by the Commission in Case No. ER-2007-0002 for the twelve months ended July 5, 2008? Should AmerenUE continue to fund the current low-income weatherization program for the full amount directed by the Commission in Case No. ER-2007-0002 for the twelve months ending July 5, 2009? In what annual amount and from what source of funds, should AmerenUE continue to fund the current low-income weatherization program beyond the Commission's Report and Order in Case No. ER-2007-0002?

Staff's position: AmerenUE should fulfill its contractual obligation to the Missouri State Environmental Improvement and Energy Resources Authority (EIERA), and pay EIERA an additional \$300,000 for the twelve months beginning July 5, 2008. This program should be continued as ordered by the Commission in ER-2007-0002 with annual funding of \$600,000 from ratepayers and \$600,000 from the Company.

15. **Pure Power Program (Voluntary Green Power Program / Renewable Energy Credits (RECs)):** Should the Commission authorize AmerenUE to continue its Pure Power Program / Voluntary Green Power Program, and if the Commission does so, in what form should the Commission authorize the continuation of the program?

Staff's position: The Commission should not authorize AmerenUE to continue the program. Unless AmerenUE can produce a study documenting the total costs attributed to the Program before hearing, an additional \$25,895 of billing costs should be transferred below-the-line as part of this case.

However, if the Commission does authorize continuation of the program, AmerenUE should be required to provide information to participants and potential participants documenting the use of the monies contributed pursuant to the program – the percentage of total collections actually received by the producer of renewable electricity and the portions that cover activity not related to possible further green production retained by the company and by intermediaries. In addition, AmerenUE should correct misstatements

on the Pure Power website in order to provide full disclosures and factual representations of the Pure Power Program to customers. If the program is allowed to continue, AmerenUE needs to be instructed to do a study to calculate implicit (unknown) administrative costs (i.e., billing and collection) and transfer the real amount of these costs below-the-line on a going forward basis.

16. **Union Issues:** The Unions are in support of AmerenUE's proposed rate increase but raise the following issues:
- a. Should AmerenUE be required to expend a substantial portion of the rate increase investing in its employee infrastructure, in general, including recruitment and training, if the Commission has the authority to require AmerenUE to do so;
 - b. if the Commission has the authority to require AmerenUE to do so Should AmerenUE be required to fully and permanently staff itself within 3 years for its normal and sustained workload, thereby reducing the need for subcontracting and overtime, if the Commission has the authority to require AmerenUE to do so;
 - c. Should AmerenUE be required to be liable for and to ensure the training and certification of its subcontractors, if the Commission has the authority to require AmerenUE to do so; and
 - d. Should AmerenUE be required to make good faith efforts to hire locally, both its internal and external workforces, if the Commission has the authority to require AmerenUE to do so?

Staff's position: The Staff has no position on these issues.

17. **Hot Weather Safety Program:** Should the Hot Weather Safety Program proposed by AARP be adopted by the Commission?

Staff's position: The Staff has no position on this issue.

18. **Certain Power On and Dollar More Advertising Expense:** Should AmerenUE's advertising expense for certain Power On and Dollar More advertising be recovered in rates?

Staff's position: The Staff has eliminated the cost of these ads because they represent institutional advertising designed to enhance the Company's image. According to the Commission's accepted criteria, such advertising expenditures should be eliminated from the cost of service.

19. **Class Cost of Service and Rate Design:**

- a. **Class Cost of Service:** How should class revenue responsibility be determined? A number of parties have submitted class cost-of-service studies.

- i Should the revenue responsibility of the various customer classes be based in part on the class cost-of-service study results?

Staff's position: Yes. A class cost of service study is an important tool and should be the starting point in reviewing the reasonableness of current rate levels for each customer class compared to other classes; however, other factors such as rate impact and affordability resulting from shifting of class revenue responsibility should also be considered.

- ii Should there be an increase or decrease in the revenue responsibility of the various customer classes?

Staff's position: No. Significant shifts in class revenue responsibility were made in AmerenUE's last rate case. The Staff's Class Cost of Service study in this case does not indicate that a shift in class revenue responsibility is warranted at this time.

- iii. If the answer to "ii" above is "yes," what basis should be used to increase or decrease the revenue responsibility of the various classes?

Staff's position: If there are shifts in class revenue responsibility the shifts should not contradict the results of Staff's class cost of service study, i.e., a class's revenue responsibility should not be reduced when the Staff's class cost of service study shows that class is providing revenue that yields a lower than an overall classes average rate of return; and a class's revenue responsibility should not be increased when the Staff's class cost of service study shows that class is providing revenue that yields a higher than an overall classes average rate of return.

b. Rate Design:

- i. In respect to the class cost-of-service determination, including the class cost-of-service study determination, how should the Commission change the level of the rates of each customer class that it orders in this case?

Staff's position: Each component of each class' rate structure should be changed by an equal percentage. If the Commission varies from this procedure, it should only be to hold the Residential Customer Charge constant.

Wherefore, the Staff hereby requests leave to late-file Staff's Statements of Position and the Staff submits its Statement of Position to each of the issues listed in the List of Issues that was filed in this case on November 12, 2008.

Respectfully submitted,

/s/ Nathan Williams

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 14th day of November, 2008.

/s/ Nathan Williams