

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office
in Jefferson City on the 21st
day of October, 2009.

In the Matter of Tariff Sheets Filed by Union Electric Company d/b/a AmerenUE Designed to Implement Revisions to AmerenUE's Business Energy Efficiency Programs))))	<u>Case No. ET-2010-0123</u> <u>Tariff No. JE-2010-0229</u>
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ORDER APPROVING TARIFF FILINGS WITH CLARIFICATION

Issue Date: October 21, 2009

Effective Date: October 25, 2009

On October 20,¹ the Commission's Staff filed a recommendation that the Commission approve tariffs filed by Union Electric Company d/b/a AmerenUE ("AmerenUE") on September 25. The tariff sheets are designed to implement revisions to AmerenUE existing Standard Incentive Program and its existing New Construction Incentive Program, both found in AmerenUE's Business Energy Efficiency Portfolio ("BEEP"). The tariff sheets were assigned tracking number JE-2010-0229 and bear an effective date of October 25, 2009.

Staff is recommending approval of these tariff sheets; however, because AmerenUE has asserted its existing demand-side programs including its BEEP programs are offered pursuant to the Missouri Energy Efficiency Investment Act ("Act") (Section 393.1124.4 RSMo; 2009 SB 376), the Staff recommends the Commission expressly and affirmatively state in its order approving those tariff sheets that the Commission is making no determination as to whether AmerenUE's BEEP is offered under the Act. As Staff explains:

¹ All dates throughout this order refer to the year 2009 unless otherwise noted.

AmerenUE originated its BEEP effective February 11, 2009, and has, at various times, added programs and modified programs in it since then by means of revised and new tariff sheets. Expenses of BEEP programs are accumulated in regulatory asset accounts, as the Commission authorized in Case No. ER-2007-0002. The genesis of this pleading is AmerenUE's assertion its existing programs, such as those found in its BEEP, are commission-approved demand-side programs proposed pursuant to [the Missouri Energy Efficiency Investment Act]. The Staff first learned of AmerenUE's assertion through the cover letter accompanying its six tariff sheets and a paragraph it proposed to add to a tariff sheet. In that letter AmerenUE, in part, states: "On Sheet No. 225, wording has been added to the Availability section to add provisions required by the Missouri Energy Efficiency Investment Act." The proposed added wording on Sheet No. 225 is a footnote, the text of which follows: "In accordance with the Missouri Energy Efficiency Investment Act, any AmerenUE electricity customer who has received a state tax credit under sections 135.350 to 135.362, RSMo, or under sections 253.545 to 253.561, RSMo, shall not be eligible for participation in the Business Energy Efficiency Programs."

The Staff believes that for a program to qualify under the Missouri Energy Efficiency Act, the utility must affirmatively propose the program under the Act and the Commission must approve the program before the utility implements it. The Staff believes AmerenUE's statement in its cover letter and its proposed paragraph in its proposed tariff sheet no. 225 [now withdrawn]² are not intended as notice that AmerenUE is proposing any of the programs in its BEEP qualify under the Missouri Energy Efficiency Investment Act. Instead, they indicate AmerenUE believes its BEEP programs already meet the requirement of being commission-approved demand-side programs proposed pursuant to the Missouri Energy Efficiency Investment Act, and, further, are insufficient as such notice.

AmerenUE began offering its BEEP programs, as well as other demand-side management programs, well before the enactment of the Act.³ Consequently, as Staff

² AmerenUE withdrew Sheet number 225 at Staff's suggestion on October 8, 2009. However, AmerenUE has not changed its position that its BEEP programs are commission-approved demand-side programs proposed pursuant to the Missouri Energy Efficiency Investment Act.

³ AmerenUE began offering its Standard Incentive Program when it initiated its BEEP by tariff sheets that became effective February 11, 2009. AmerenUE began offering its New Construction Incentive Program by tariff sheets that became effective May 3, 2009. AmerenUE last made any substantive changes to these programs by tariff sheets that became effective July 24, 2009 (Tariff Tracking No. JE-2009-0884). The Missouri Energy Efficiency Investment Act became law on August 28, 2009. According to the

correctly observes, AmerenUE has not implemented these program pursuant to the Act.⁴ The Commission has reviewed the tariff filings and Staff's verified recommendation and memorandum and finds the tariffs should be approved with the caveat that the Commission is making no determination as to whether AmerenUE's BEEP is offered under the Missouri Energy Efficiency Investment Act.

THE COMMISSION ORDERS THAT:

1. The tariff sheets filed by Union Electric Company d/b/a AmerenUE on September 25, 2009, Tariff No. JE-2010-0229, are approved to become effective on October 25, 2009. The tariff sheets approved are:

P.S.C. Mo. No. 5

**2nd Revised Sheet No. 231, Canceling 1st Revised Sheet No. 231
1st Revised Sheet No. 235.1, Canceling Original Sheet No. 235.1
1st Revised Sheet No. 235.2, Canceling Original Sheet No. 235.2
1st Revised Sheet No. 235.3, Canceling Original Sheet No. 235.3
1st Revised Sheet No. 235.6, Canceling Original Sheet No. 235.6**

2. This order shall become effective on October 25, 2009.

Missouri State Government website, the Legislature truly agreed to and finally passed the bill including the Missouri Energy Efficiency Investment Act on May 14, 2009, it was delivered to the Governor on May 29, 2009, and the Governor signed it on July 13, 2009.

⁴ The significance of whether a program is a commission-approved demand-side program proposed under the Missouri Energy Efficiency Act, in part, hinges on rights and obligations that follow if it is under the Act. These rights and obligations include but are not limited to: 1) if a program is a demand-side program for purposes of the Missouri Energy Efficiency Investment Act, then the accounts of certain customers who elect not to participate may not be assigned costs associated with the program (Section 393.1124.7, RSMo) customers who elect not to participate cannot subsequently participate except under guidelines the Commission establishes by rule (Section 393.1124.8 and .3) if a customer has received certain state tax credits the customer is ineligible to participate if the program offers a monetary incentive to the customer (Section 393.1124.14, RSMo).

3. This case shall be closed on October 26, 2009.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'S. Reed', is positioned above the printed name.

Steven C. Reed
Secretary

(S E A L)

Clayton, Chm., Davis, Jarrett, Gunn,
and Kenney, CC., concur.

Stearley, Senior Regulatory Law Judge