

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

In the Matter of a Repository File Concerning	)	
Staff's Review of the Commission's Fuel	)	File No. EW-2011-0139
Adjustment Clause.	)	

**AMEREN MISSOURI'S COMMENTS**

COMES NOW Union Electric Company d/b/a Ameren Missouri (Ameren Missouri) and, in compliance with the Commission's November 23, 2010 *Order Opening a Repository File Concerning Staff's Review of the Commission's Fuel Adjustment Clause Rules*, hereby submits its *Comments*, as follows:

1. The Missouri Public Service Commission's (Commission) *Order Opening a Repository File Concerning Staff's Review of the Commission's Fuel Adjustment Clause Rules* (Order) requested comments and suggestions on how the effectiveness of its fuel adjustment clause rules could be improved, to be filed by March 1, 2011.
2. Ameren Missouri appreciates the opportunity to provide comments for consideration at this time. The fuel adjustment clause (FAC) rules became effective in 2007 and Ameren Missouri has had a FAC since March of 2009.
3. Ameren Missouri believes the FAC rules have generally been effective. However, operating under the rules has revealed a few non-substantive "mechanical" changes that would improve the operation of the FAC rules, and there are a few other areas where changes in other Commission rules warrant minor "housekeeping" adjustments to the FAC rules, primarily driven by the Commission's adoption of its confidential information rule, which caused some parts of the FAC rule to become out-of-date. A marked-up version of the sections or subsections affected by these mechanical changes and housekeeping adjustments is attached to these Comments. Included with this marked-up version are brief explanations for the suggested changes. .

WHEREFORE, Ameren Missouri respectfully submits its *Comments* in response to the Commission's order of November 23, 2010.

Dated: March 1, 2011.

SMITH LEWIS, LLP

**/s/James B. Lowery**

James B. Lowery, #40503  
Suite 200, City Centre Building  
111 South Ninth Street  
P.O. Box 918  
Columbia, MO 65205-0918  
Phone (573) 443-3141  
Facsimile (573) 442-6686  
[lowery@smithlewis.com](mailto:lowery@smithlewis.com)

**Attorneys for Union Electric Company d/b/a  
AmerenUE**

UNION ELECTRIC COMPANY

d/b/a AmerenUE

**Thomas M. Byrne**, #33340  
Managing Associate General Counsel  
**Wendy K. Tatro**, #60261  
Associate General Counsel  
1901 Chouteau Avenue, MC-1310  
P.O. Box 66149, MC-1310  
St. Louis, MO 63101-6149  
(314) 554-2514 (Telephone)  
(314) 554-4014 (Facsimile)  
[tbyrne@ameren.com](mailto:tbyrne@ameren.com)

## CHANGES RELATING TO TRUE-UP DEFINITION

### 20.080(1)

~~(I) True-up year means the twelve (12)-month period beginning on the first day of the first calendar month following the effective date of the commission order approving a RAM unless the effective date is on the first day of the calendar month. If the effective date of the commission order approving a rate mechanism is on the first day of a calendar month, then the true-up year begins on the effective date of the commission order. The first annual true-up period shall end on the last day of the twelfth calendar month following the effective date of the commission order establishing the RAM. Subsequent true-up years shall be the succeeding twelve (12) month periods. If a general rate proceeding is concluded prior to the conclusion of a true-up year, the true-up year may be less than twelve (12) months.~~

(I) True-up period shall mean a period coinciding with each recovery period. A “recovery period” is the period over which the difference between base fuel and purchased power costs versus actual fuel and purchased power costs accumulated over an historical period are recovered from (or credited to) customers.

### 20.080(4)

(A) An electric utility with a FAC shall file one (1) mandatory adjustment to its FAC ~~in each true-up year~~ coinciding with the true-up of its FAC. It may also file up to three (3) additional adjustments to its FAC ~~within a true-up year~~ with the timing and number of such additional filings to be determined in the general rate proceeding establishing the FAC and in general rate proceedings thereafter.

### 20.080(5)

(5) True-Ups of RAMs. An electric utility that files for a RAM shall include in its tariff schedules and application, if filed in addition to tariff schedules, provision for true-ups ~~on at least an annual basis~~ of each recovery period which shall accurately and appropriately remedy any over-collection or under-collection through subsequent rate adjustments or refunds.

(C) The electric utility must be current on its submission of its Surveillance Monitoring Reports as required in section (10) and its monthly reporting requirements as required by 4 CSR 240-3.161(5) at the time that it files its application for a true-up of its RAM in order for the commission to process the electric utility’s requested ~~annual~~ true-up of any under-collection.

### 3.161(1)

~~(G) True-up year means the twelve (12)-month period beginning on the first day of the first calendar month following the effective date of the commission order approving a~~

~~RAM unless the effective date is on the first day of the calendar month. If the effective date of the commission order approving a rate mechanism is on the first day of a calendar month, then the true-up year begins on the effective date of the commission order. The first annual true-up period shall end on the last day of the twelfth calendar month following the effective date of the commission order establishing the RAM. Subsequent true-up years shall be the succeeding twelve (12) month periods. If a general rate proceeding is concluded prior to the conclusion of a true-up year the true-up year may be less than twelve (12) months.~~

(G) True-up period shall mean a period coinciding with each recovery period. A “recovery period” is the period over which the difference between base fuel and purchased power costs versus actual fuel and purchased power costs accumulated over an historical period are recovered from (or credited to) customers.

### 3.161(2)

(O) The supply-side and demand-side resources that the electric utility expects to use to meet its loads in the ~~next four (4) true-up years~~four year period commencing with the first day of the month following the date the general rate proceeding was filed, the expected dispatch of those resources, the reasons why these resources are appropriate for dispatch and the heat rates and fuel types for each supply-side resource; in submitting this information, it is recognized that supply- and demand-side resources and dispatch may change during the ~~next four (4) true-up years~~year period based upon changing circumstances and parties will have the opportunity to comment on this information after it is filed by the electric utility;

### 3.161(3)

(P) The supply-side and demand-side resources that the electric utility expects to use to meet its loads in the ~~next four (4) true-up years~~four year period commencing with the first day of the month following the date the general rate proceeding was filed, the expected dispatch of those resources, the reasons why these resources are appropriate for dispatch and the heat rates and fuel types for each supply-side resource; in submitting this information, it is recognized that supply- and demand-side resources and dispatch may change during the ~~next four (4) true-up years~~year period based upon changing circumstances and parties will have the opportunity to comment on this information after it is filed by the electric utility;

### 3.161(10)

(A) A person or entity granted intervention in a general rate proceeding in which a RAM is approved by the commission, shall be a party to any subsequent related periodic rate adjustment proceeding, ~~annual~~ true-up or prudence review, without the necessity of applying to the commission for intervention. In any subsequent general rate proceeding, such person or entity must seek and be granted status as

an intervenor to be a party to that case. Affidavits, testimony, information, reports, and workpapers to be filed or submitted in connection with a subsequent related periodic rate adjustment proceeding, ~~annual~~-true-up, prudence review, or general rate case to modify, extend or discontinue the same RAM shall be served on or submitted to all parties from the prior related general rate proceeding and on all parties from any subsequent related periodic rate adjustment proceeding, ~~annual~~-true-up, prudence review, or general rate case to modify, extend or discontinue the same RAM, concurrently with filing the same with the commission or submitting the same to the manager of the auditing department of the commission and OPC, pursuant to the provisions of a commission protective order, unless the commission's protective order specifically provides otherwise relating to these materials.

(B) A person or entity not a party to the general rate proceeding in which a RAM is approved by the commission may timely apply to the commission for intervention, pursuant to 4 CSR 240-2.075(2) through (4) of the commission's rule on intervention, respecting any related subsequent periodic rate adjustment proceeding, ~~annual~~-true-up, or prudence review, or, pursuant to 4 CSR 240-2.075(1) through (5), respecting any subsequent general rate case to modify, extend or discontinue the same RAM. If no party to a subsequent periodic rate adjustment proceeding, ~~annual~~ true-up, or prudence review, objects within ten (10) days of the filing of an application for intervention, the applicant shall be deemed as having been granted intervention without a specific commission order granting intervention, unless within the above-referenced ten (10)-day period the commission denies the application for intervention on its own motion. If an objection to the application for intervention is filed on or before the end of the above-referenced ten (10)-day period, the commission shall rule on the application and the objection within ten (10) days of the filing of the objection.

### 3.161(12)

(12) Supplementing and updating data requests in subsequent related proceedings. If a party which submitted data requests relating to a proposed RAM in the general rate proceeding where the RAM was established or in the general rate proceeding where the same RAM was modified or extended, or in any subsequent related periodic rate adjustment proceeding, ~~annual~~-true-up, or prudence review, wants the responding party to whom the prior data requests were submitted to supplement or update that responding party's prior responses for possible use in a subsequent related periodic rate adjustment proceeding, ~~annual~~-true-up, prudence review or general rate case to modify, extend or discontinue the same RAM, the party which previously submitted the data requests shall submit an additional data request to the responding party to whom the data requests were previously submitted which clearly identifies the particular data requests to be supplemented or updated and the particular period to be covered by the updated response. A responding party to a request to supplement or update shall supplement or update a data request response, from a related general rate proceeding where a RAM was

established, a general rate case where the same RAM was modified or extended, or a related periodic rate adjustment proceeding, ~~annual~~-true-up, or prudence review that the responding party has learned or subsequently learns is in some material respect incomplete or incorrect.

### 3.161(13)

(13) Separate cases for each general rate proceeding involving a RAM and for each mutually exclusive ~~twelve (12)-month annual~~-true-up period of a RAM. Each general rate proceeding where the commission may approve, modify, or reject a RAM; each general rate case where the commission may authorize the modification, extension, or discontinuance of a RAM; and each mutually exclusive ~~twelve (12)-month period of a RAM that encompasses an annual true-up true-up period~~, prudence review, and possible periodic rate adjustments shall comprise a separate case.

**Explanation for the Above-Changes:** *Given the practical operation of Ameren Missouri's FAC (and the ~~FAC's~~FACs in place for two other electric utilities in Missouri), it makes more sense to true-up over- or under-collections after each recovery period. The "true-up year" definition in the initial FAC rules did not accommodate this more sensible scheme, which had ~~lead~~led to Ameren Missouri changing its initial FAC tariff (with Commission approval) and also required that Ameren Missouri obtain a variance from the "true-up year" definition for its first true-up filing. This change will conform to the practice being employed by Ameren Missouri and other utilities and eliminate the need for variances from the FAC ~~rule~~rules.*

## **OTHER HOUSEKEEPING CHANGES**

### 20.080(4)

(C) If the staff, Office of the Public Counsel (OPC) or other party which receives, pursuant to ~~a protective order~~4 CSR 240.2.135, the information that the electric utility is required to submit in 4 CSR 240-3.161 and as ordered by the commission in a previous proceeding, believes that the information required to be submitted pursuant to 4 CSR 240-3.161 and the commission order establishing the RAM has not been submitted in compliance with that rule, it shall notify the electric utility within ten (10) days of the electric utility's filing of an application or tariff schedules to adjust the FAC rates and identify the information required. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was in compliance with the requirements of 4 CSR 240-3.161, within ten (10) days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel, the processing timeline for the adjustment to increase FAC rates shall be suspended. If the commission then issues an order requiring the information be provided, the time necessary for the information to be provided shall further

extend the processing timeline for the adjustment to increase FAC rates. For good cause shown the commission may further suspend this timeline. Any delay in providing sufficient information in compliance with 4 CSR 240-3.161 in a request to decrease FAC rates shall not alter the processing timeline.

- (D) The staff shall examine and analyze the information filed by the electric utility pursuant to 4 CSR 240-3.161 and additional information obtained through discovery, to determine whether the true-up is in accordance with the provisions of this rule, section 386.266, RSMo and the RAM established in the electric utility's most recent general rate proceeding. The staff shall submit a recommendation regarding its examination and analysis to the commission not later than thirty (30) days after the electric utility files its tariff schedules for a true-up. The commission shall either issue an order deciding the true-up within sixty (60) days of the electric utility's filing, suspend the timeline of the true-up in order to receive additional evidence and hold a hearing if needed or, if no such order is issued, the tariff schedules and the FAC rate adjustments shall take effect by operation of law sixty (60) days after the utility's filing.

1. If the staff, OPC or other party which receives, pursuant to ~~a protective order~~ 4 CSR 240-2.135, the information that the electric utility is required to submit in 4 CSR 240-3.161 and as ordered by the commission in a previous proceeding, believes the information that is required to be submitted pursuant to 4 CSR 240-3.161 and the commission order establishing the RAM has not been submitted or is insufficient to make a recommendation regarding the electric utility's true-up filing, it shall notify the electric utility within ten (10) days of the electric utility's filing and identify the information required. The electric utility shall supply the information identified by the party, or shall notify the party that it believes the information provided was responsive to the requirements, within ten (10) days of the request. If the electric utility does not timely supply the information, the party asserting the failure to provide the required information must timely file a motion to compel with the commission. While the commission is considering the motion to compel the processing timeline for the adjustment to the FAC rates shall be suspended. If the commission then issues an order requiring the information to be provided, the time necessary for the information to be provided shall further extend the processing timeline. For good cause shown the commission may further suspend this timeline.

#### 20.080(14)

~~(14) Rule Review. The commission shall review the effectiveness of this rule by no later than December 31, 2010, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.~~

#### 3.161(3)

(Q) The results of heat rate tests and/or efficiency tests on all the electric utility's nuclear and non-nuclear steam generators, HRSG, steam turbines and combustion turbines

conducted within the previous twenty four (24) months; provided, however, the electric utility may, in lieu of filing the foregoing results, provide them to the commission's staff and to other parties granted intervention in the general rate proceeding with the workpapers provided by the electric utility in connection with the filing of its direct case;

### 3.161(9)

(9) Providing to other parties items required to be filed or submitted in preceding sections (3) through (8). Information required to be filed with the commission or submitted to the manager of the auditing department of the commission and to OPC in sections (3) through (8) shall also be, in the same format, served on or submitted to any party to the related general rate proceeding in which the RAM was approved by the commission, periodic rate adjustment proceeding, ~~annual~~-true-up, prudence review, or general rate case to modify, extend or discontinue the same RAM, pursuant to the provisions of ~~a commission protective order, unless the commission's protective order specifically provides otherwise relating to these sections of the commission's rule on RAMs~~4 CSR 240-2.135.

### 3.161(11)

~~(11) Issuance of Protective Orders and~~(11) Discovery.

(A) In each general rate proceeding where the commission may approve, modify, or reject a RAM, and each general rate case where the commission may authorize the modification, extension, or discontinuance of a RAM, the ~~electric utility or the complainant, depending upon which entity initiates the case, shall file a motion for commission issuance of a protective order. The protective order shall, among other things, provide that the~~ results of discovery may be used in any subsequent periodic rate adjustment proceeding, ~~annual~~-true-up proceeding, or prudence review without a party resubmitting the same discovery requests (data requests, interrogatories, requests for production, requests for admission, or depositions) in the subsequent proceeding to parties that produced the discovery in the prior proceeding, subject to a ruling by the commission concerning any evidentiary objection made in the subsequent proceeding.

(B) The commission shall establish a new case for each mutually exclusive twelve (12)-month period encompassing ~~an annual~~a true-up of a recovery period, prudence review and possible periodic rate adjustments, upon the filing of the first pleading or rate schedule respecting such ~~annual true-up, prudence review or periodic rate adjustments, and shall issue a new protective order, pursuant to 4 CSR 240-2.085, to apply in the proceeding without the necessity of any party applying for a protective order. This new protective order shall be identical to the protective order in the immediately preceding related case, unless the electric utility or other party files and serves upon the parties in the immediately preceding related case, at least thirty (30) days prior to the filing of the first pleading or rate schedule respecting the annual true-up, prudence review and possible periodic rate adjustments, encompassing an appropriate twelve (12)-month period, a proposed new protective order for commission consideration. If the commission does not rule on the request for a proposed new protective order by the time that~~



~~information sought to be protected is provided to another party or filed with the commission, the information shall be provided or filed at the level of protection designated by the providing or filing party. true-up, prudence review or periodic rate adjustments.~~

~~(C) If an electric utility or other party files for a new protective order less than thirty (30) days prior to the filing of the first pleading or rate schedule respecting an annual true-up, prudence review or possible periodic rate adjustments, encompassing an appropriate twelve (12)-month period, the commission shall initially issue a protective order identical to the protective order in the immediately preceding related case to be in effect while the commission considers responses and decides whether the new protective order proposed by the electric utility or other party shall be adopted for any additional material to be disclosed by parties in the proceeding in question.~~

~~(D) Subsequent protective orders shall authorize use of the results of discovery from any preceding proceeding relating to the same RAM, without a party resubmitting the same discovery requests (data requests, interrogatories, requests for production, requests for admission, or depositions) in the subsequent proceeding to parties that produced the discovery in the earlier proceeding, subject to a ruling by the commission concerning any evidentiary objection made in the subsequent proceeding.~~

### 3.161(17)

~~(17) Rule Review. The commission shall review the effectiveness of this rule by no later than December 31, 2010, and may, if it deems necessary, initiate rulemaking proceedings to revise this rule.~~

*Explanation for Above-Changes: These changes are suggested primarily because of the Commission's adoption of a rule relating to confidential information (and in part due to the true-up issues discussed above), which in these areas make the FAC rules, as written, out-of-date. Although it made sense in the initial rule to provide for an early review, the Company recommends the Commission not in the future "hard code" a review date in its rules. The Commission is free to review its rules at any time. By definition, any set date for review is somewhat arbitrary.*