BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In re: Union Electric Company's	)	
2005 Utility Resource Filing Pursuant to	)	Case No. EO-2006-0240
4 CSR 240 – Chapter 22.	)	

AMERENUE'S HEARING RECOMMENDATION

COMES NOW Union Electric Company d/b/a AmerenUE (AmerenUE or the Company) and for its *Hearing Recommendation*, states as follows:

Background

1. On December 5, 2005, AmerenUE filed its Integrated Resource Plan (IRP) pursuant to 4 CSR 240-22.010 et. seq. (the IRP Rules).

2. On May 19, 2006, the Staff of the Missouri Public Service Commission (Staff), the Office of Public Counsel (OPC), the Missouri Department of Natural Resources (DNR) and the Sierra Club, Missouri Coalition for the Environment, Mid-Missouri Peaceworks and the Association of Community Organizations for Reform Now (collectively, the Sierra Club) each filed their *Reports* and/or *Comments* (*Comments*)on AmerenUE's IRP filing.

3. On August 4, 2006, AmerenUE, Staff, OPC, DNR and the Sierra Club made a joint filing setting forth areas where parties had reached an agreed upon resolution of alleged deficiencies and listing areas in which the parties had not reached agreement.

4. On August 15, 2006, Staff and AmerenUE filed a *Stipulation and Agreement* which resolved all alleged deficiencies contained within Staff's May 19, 2006 filing.

5. On September 15, 2006, AmerenUE, DNR and the Sierra Club each filed their *Response* to the May 19, 2006 *Comments*.

6. The Commission issued a September 19, 2006 order requiring the parties to attend an October 10, 2006 conference to discuss whether or not a hearing should be scheduled. The conference was held as ordered, but no agreement was reached among the parties. All parties agreed to file a recommendation no later than October 17, 2006 on whether or not the Commission should hold a hearing.

AmerenUE's Resource Decisions Have Been Made and Implemented

7. AmerenUE's IRP indicated that the least-cost resource plan for AmerenUE was to add peaking capacity to ensure a prudent level of planning reserve margins for the next several years, and that no baseload additions would be required for several years. This is because AmerenUE's portfolio already included, and is expected to include for several more years, sufficient quantities of energy to serve its native load without the need to add any baseload capacity in the near-term.

8. Because of the opportunity to purchase substantial peaking capacity located with the footprint of the Midwest Independent Transmission System Operator, Inc. (MISO) at very attractive prices, AmerenUE has already executed its preferred, least-cost resource plan and has purchased three separate gas-fired combustion turbine generating plants, thereby adding approximately 1350 megawatts (MW) of generating capacity to AmerenUE's portfolio. AmerenUE does not anticipate adding any further generation resources for a number of years, other than the addition of 100 MW of wind by 2010 as discussed in the direct testimony of AmerenUE witness Michael L. Moehn in AmerenUE's pending electric rate case, Case No. ER-2007-0002. Indeed, no material resource additions are expected to occur at AmerenUE until substantially after AmerenUE will have made its next-scheduled IRP filing (on or about December 5, 2008) pursuant to the IRP Rules. Moreover, as discussed in more detail below,

AmerenUE has already issued a Request for Proposal (RFP) for the hiring of a consultant to immediately analyze demand side management and efficiency programs. The results of that analysis will be included in AmerenUE's upcoming 2008 IRP filing. In the interim, however, no significant resource additions are expected to be made insofar as AmerenUE has already, as noted above, executed its resource strategy for the next few years.

9. The issue before the Commission at this time centers on the discretionary authority of the Commission to hold, or not hold, a hearing respecting AmerenUE's IRP filing. In this regard, the IRP Rules provide that the "Commission will issue an order which indicates on what terms, *if any*, a hearing will be held …" (emphasis added). 4 CSR 240-22.080(9). Consequently, there is no requirement that a hearing be held at all, and, if one is to be held, there is certainly no mandated time-frame within which a hearing must occur.

10. As the *Comments* and *Responses* filed by some (but not all) of the parties to this docket indicate, some parties believe that the Company's IRP was not in full compliance with each and every requirement contained in the sixteen pages that comprise the IRP Rules. However, as noted earlier, Staff and the Company have reached and filed a *Stipulation and Agreement* that resolves all deficiencies alleged to exist by Staff and that, in brief, provides for the Company to address those deficiencies in its upcoming December, 2008 filing with the exception of certain DSM work, which AmerenUE has already begun. Indeed, the basis for the *Stipulation and Agreement* is that the IRP Rules are about process -- the *process* of resource planning -- as opposed to whether or not the results of the process are the right or wrong results.[1] As noted above, at present, the results of the resource planning *process* at AmerenUE have been achieved. The CTGs have been purchased.

[1] "(1) The commission's policy goal in promulgating this chapter is to set minimum standards to govern the scope and objectives of the resource planning *process* . . . Compliance with these rules shall not be considered to result in commission approval of the utility's resource plans . . . (emphasis added)." 4 CSR 240-22.010(1).

11. Staff recognized this fact, noting that "[b]ecause of AmerenUE's recent purchase of…CTG capacity at a price substantially below the cost to build such new capacity, the Staff believes that excess capacity balance resulting from these purchases mitigates the Staff's concerns about the ultimate end result of deficiencies in AmerenUE's resource planning processes and provides AmerenUE another opportunity to meet the intent of the Commission's resource planning [rules] in December 2008, without existing deficiencies having immediate term bad consequences." Staff Report, Appendix A, p. 6. In other words, continuing at this point to litigate "who is right and who is wrong" regarding various interpretations of the existing IRP Rules is unwarranted because there will be no consequences or harm to the public interest insofar as AmerenUE has made and executed its immediate term resource plan, which provides sufficient energy and capacity to serve AmerenUE's customers without additional resource additions for several more years.

A Hearing is Not Warranted for Several Reasons

12. As AmerenUE noted above, holding a hearing on the remaining alleged deficiencies is an *option* available to the Commission. However, it is an option not warranted by the unique circumstances existing at AmerenUE, where the resource plan has already been executed, and where no material resource additions will occur prior to the time AmerenUE makes its next IRP filing more than two years from now, in December, 2008.

13. It should also be noted that this filing is the first IRP filing for AmerenUE since 1993. AmerenUE is the first electric utility in the State of Missouri to file under the IRP Rules in six years, since the rules were suspended in 1999 in Case No. EO-99-365. Kansas City Power & Light Company (KCPL) has now also filed its IRP plan and the rest of the electric utilities in Missouri will be filing their IRP plans in accordance with the schedule set forth in 4 CSR 240-

22.080(3). AmerenUE would point out that KCPL's filing relied heavily upon its request for a waiver for a part of the Load Analysis and Forecasting portion of the rules as well as upon its request for a 23-month extension for the Supply-Side Resources Analysis, Integrated Resource Analysis and Risk Analysis and Strategy Selection portions. These areas constitute major sections of the IRP Rules.

14. There has been considerable discussion about the need to amend the IRP Rules. This discussion began as far back as 1999 when AmerenUE, along with several other Missouri electric utilities, formally asked the Commission to rescind its IRP Rules. That case resulted in the suspension of the IRP Rules for several years. As the suspension period came to an end, discussions on the need to modify the IRP Rules resumed. In May of 2005, Staff held a workshop in which AmerenUE participated. The purpose of the workshop was to discuss the Missouri IRP Rules and the types of changes which might be appropriate for the rules. Recently, the Governor's Energy Task Force Report Presentation was released. This task force was chaired by Commission Chair Jeff Davis and included Public Counsel Lewis Mills. The Task Force's recommendations include revision of the Commission's IRP Rules. Finally, at a recent hearing at the Commission, Staff member Warren Wood noted that "…the resource planning rules will likely be changed as a result of upcoming rulemaking efforts." Case No. EX-2006-0472, Public Hearing Transcript, September 7, 2006, p. 14, l. 19. Finally, AmerenUE would note that Staff recommendations in Case No. EO-2006-0493 include opening an EX case to consider amending the current IRP Rules.

15. The *Comments* filed by the Staff in this case demonstrate that Staff also believes that the IRP Rules are not completely reflective of the current utility environment and that belief impacted their review of AmerenUE's filing. "Because of these changes over the time that the

rules were suspended, AmerenUE filed, and the Commission Staff reviewed AmerenUE's filing considering, the 'intent' of the rules." Staff Report, May 19, 2006, Appendix A, p. 1.

16. AmerenUE believes that the current rules, which were written in the early 1990s and which have not been modified since, are too prescriptive for the current utility environment and that some portions are clearly outdated. For example, the rules reference modeling software no longer used in the industry. Having rules that are flexible enough to adjust to the on-going changes in the industry is important, especially given that compliance with these rules is extremely expensive both in terms of the amount of money required to put together an IRP filing as well the large amount of time involved in its preparation. This concern isn't limited to the time required by the utility in preparing its filing. In this case, for example, all parties spent many days in discussions with multiple personnel involved in each meeting. Meetings were held first to walk through the complex filing and then to discuss the various deficiencies alleged by the parties. AmerenUE is not suggesting that this effort was not useful nor is it saying it is unwilling to invest significant time and resources into a planning process. In fact, AmerenUE feels planning is extremely important for every utility. AmerenUE merely desires an IRP process that better reflects current planning processes, better utilizes all parties' limited resources and thus is more beneficial for all involved.

17. Another factor unique to the current situation, as discussed above, is that AmerenUE does not face any immediate need for additional baseload or peaking generation capacity. Staff's *Comments* acknowledged this fact as its rationale for allowing AmerenUE to make any necessary modifications or additions in its next IRP filing, due in December of 2008, as previously noted.

18. Under the terms of this *Stipulation and Agreement* between AmerenUE and Staff, AmerenUE agreed to prepare its 2008 filing in a manner that better conforms to Staff's interpretation of the requirements of the Commission's IRP Rules. Additionally, AmerenUE agreed to begin additional analysis of demand side management and energy efficiency programs (although a distinction between the two types of programs exists, this document uses 'DSM' to refer to both.) Importantly, all parties will have input into this process through the semi-annual meetings that AmerenUE has agreed to continue. As the Commission is aware, semi-annual meetings were ordered as part of the suspension of the IRP filing requirements. Despite the fact that the suspension of the rules has expired, AmerenUE has agreed to continue the meetings as a mechanism to allow all parties in this case an opportunity to provide comment and input during the development of AmerenUE's DSM programs as well as other aspects of resource planning including risk and uncertainty analysis, market modeling, etc. Further, these semi-annual meetings are not limited to the signatories of the *Stipulation and Agreement*; all parties in this case may participate.

19. AmerenUE has begun implementation of our initial commitments under the *Stipulation and Agreement*. We presented all parties in this case with the draft RFP for hiring a DSM consultant on September 9, 2006 and gave all parties the opportunity to provide comments and make suggestions prior to its issuance. Although very few parties provided any comments, a majority of the comments received were incorporated into the RFP prior to its issuance on October 10, 2006.

20. Finally, to reiterate, the Commission should not lose sight of the fact that this case is designed to examine process – the process of AmerenUE's integrated resource planning. This is not a case where the Commission should or even could order AmerenUE to make a particular

resource decision, such as ordering the construction of a generation plant or the implementation of particular DSM programs, as some parties would prefer. (See DNR's *Response* filed September 15, 2006, where they stated, "The most significant of those reasons [to not support the *Stipulation & Agreement*] is that AmerenUE makes no commitment to implement cost-effective DSM programs at any [dollar] level.")

21. AmerenUE believes its recommendation for the Commission to approve the *Stipulation and Agreement* as a full and complete resolution of this case, without holding a hearing, is the most appropriate course of action based upon the unique set of circumstances which exist in this case. Holding an optional hearing would not further improve the AmerenUE planning process which, indeed, is the only goal of the IRP Rules.

Hearing Schedule

22. AmerenUE is aware that others will recommend that a hearing be held and that it be held in late February, just three weeks before the evidentiary hearings in AmerenUE's pending gas and electric rate cases are scheduled to commence. Those rate case hearings are scheduled to last for three full weeks.

23. As noted above, AmerenUE does not believe a hearing is warranted at all. However, if, after considering the circumstances in this case, the Commission determines that a hearing should be held, AmerenUE would ask that it be scheduled after the AmerenUE rate case hearing is completed and post-hearing briefs have been filed. The *only possible* legitimate point to holding such a hearing would be to develop more fully information relating to the process AmerenUE should follow on a going-forward basis in its resource planning, which would in turn form the basis for its December 2008 IRP filing.[2] That filing is more than *two years* away.

[2] The only other possible point might be for parties to try to gain some advantage in AmerenUE's rate cases arising from the holding of hearings in this IRP docket. For example, OPC alleges in this docket that AmerenUE's resource

24. If the Commission desires to hold a hearing in order to more fully develop such information, it has ample time to do so after the unprecedented number of major rate cases currently pending at the Commission are complete, including after AmerenUE's two pending rate cases. There is simply no legitimate reason to divert the resources of any party, including the Company, or of the Commission itself, to the holding of a hearing before these rate cases are over to argue about whether AmerenUE's past processes were or were not correct. The resource acquisitions have been made and AmerenUE needs no additional capacity or energy for several years. AmerenUE's December 2008 IRP filing will comply with each term of the *Stipulation and Agreement* reached with Staff and may indeed be filed under a revised and improved set of IRP Rules.

25. Holding a hearing during the pendency of the AmerenUE rate cases will create real prejudice to AmerenUE. AmerenUE personnel are extremely busy with the rate cases and will become even busier as the procedural schedule progresses. A review of the procedural schedules in these cases reveals that the months of January through April will be entirely consumed by the litigation of these cases. AmerenUE's electric rate case has 17 parties and the Commission is contemplating 15 separate local public hearings to be held during the month of January. Given the number of parties involved, it is possible and perhaps likely that there will be substantially in excess of 60 witnesses in the electric case alone. By agreement, the usual time to respond to discovery has been substantially reduced starting February 1, 2007. Three weeks of technical/settlement conferences are scheduled during the months of January and February.

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planning process is flawed and that the Company's IRP filing is deficient based upon OPC's legal position on the former purchased power contract between AmerenUE and Electric Energy, Inc. (EEInc.) This is a continuation of OPC's unsuccessful efforts at the Federal Energy Regulatory Commission and, previously at this Commission in the Metro East case, to somehow require AmerenUE to force EEInc. to sell power to AmerenUE at cost, in perpetuity. That issue will likely be an issue in the Company's electric rate case, but it has no business in this IRP docket, and parties should not be allowed to use any IRP hearing to advance any rate case agenda they may have.

Individuals key to the IRP filing are deeply involved in the rate case and cannot devote the time and attention that would be necessary to properly participate in IRP hearings, if they are to be held, and to also properly address their duties in the rate cases. Most importantly, no regulatory objective will be achieved by holding any hearings the Commission might decide it desires to hold in the middle of these rate cases, given the circumstances currently existing at AmerenUE.

WHEREFORE, AmerenUE respectfully requests that the Commission exercise its discretion and order that no hearing be held in this docket, and that it approve the *Stipulation and Agreement* between the Company and the Staff as a full and final resolution of this docket. In the alternative, if the Commission decides to exercise its discretion and hold a hearing, AmerenUE requests that the Commission set the procedural schedule to begin sometime after the scheduled hearings and briefing conclude in AmerenUE's pending rate cases, Case Nos. ER-2007-0002 and GR-2007-0003.

Respectfully submitted,

UNION ELECTRIC COMPANY
d/b/a AmerenUE

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 17th day of October, 2006.

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