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September 28, 2004

**FILED<sup>2</sup>**

SEP 28 2004

Missouri Public  
Service Commission

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

Re: Case No. GT-2005-0069

Dear Judge Roberts:

Please find enclosed for filing in the referenced matter the original and five copies of MFA Incorporated's and ONEOK Energy Marketing Company's Response to Staff Memorandum of September 24, 2004.

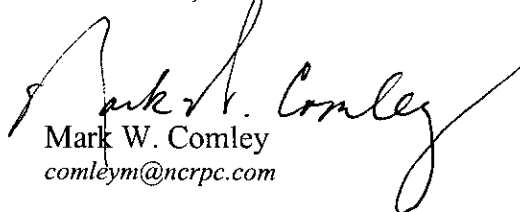
Would you please bring this filing to the attention of the appropriate Commission personnel.

Please contact me if you have any questions regarding this filing. Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:

  
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MWC:ab

Enclosure

cc: Office of Public Counsel  
General Counsel's Office  
Steven R. Sullivan  
Victor S. Scott  
Paul Gardner  
J. Brian Griffith  
Thomas J. Kirby

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>2</sup>

SEP 28 2004

Missouri Public  
Service Commission

In the Matter of Union Electric Company )  
d/b/a AmerenUE's Proposed Tariff )  
Revisions Regarding Burner Tip )  
Balancing for its Gas Transportation )  
Customers )  
)

Case No. GT-2005-0069  
Tariff No. JG-2005-0145I-2004-0654

**MFA INCORPORATED'S AND ONEOK ENERGY MARKETING COMPANY'S  
RESPONSE TO STAFF MEMORANDUM OF SEPTEMBER 24, 2004**

On September 20, 2004, the Commission ordered the Staff to file a response to a motion to suspend tariffs filed by ProLiance Energy L.L.C. The Staff timely filed a response to that order on September 24, 2004 and attached a memorandum explaining its recommendation. For brevity, the Staff's response will be referred to as simply the "Staff Memorandum." MFA INCORPORATED (MFA) and ONEOK ENERGY MARKETING COMPANY (OEMC) (collectively "the Movants" or "Applicants") request that the Staff's recommendation be rejected. The Commission should grant the motions to suspend filed by the Movants and ProLiance.

**A. The necessity of the tariff is questionable and moreover, it invites discrimination.**

In the second paragraph of the Staff Memorandum, Staff states:

This tariff is necessary because PEPL will no longer provide the administrative function of burner-tip balancing for most of Ameren's gas transportation customers after October 1, 2004.

In their Joint Motion to Suspend, Movants pointed out to the Commission the grave risk of discrimination posed by the tariff. As the Staff Memorandum confirms, burner tip balancing will still be performed by PEPL for some of its customers. Movants repeat that if burner tip

balancing is an option for one transport customer behind the Ameren system it should be an option for all transport customers behind that system. PEPL appears to understand this. In its recent contacts with PEPL, OEMC has learned that what OEMC and Ameren have considered "burner tip balancing" will still be available from PEPL after October 1, 2004. Essentially, PEPL is not changing any "balancing" functions it provides. PEPL is changing its rules or requirements on when and how data should be supplied. Since PEPL intends to continue its past method of burner tip balancing, there is no need for Ameren's tariff filing.

**B. The tariff's cash out provisions should not be based on the cash out provisions of Texas Eastern Pipeline**

At the mid point of the second paragraph of the Staff Memorandum, Staff states:

Ameren currently balances gas transportation customers served by Texas Eastern Transmission per the provisions detailed on Ameren's 4<sup>th</sup> Revised Tariff Sheet No. 14. Ameren's PEPL transportation customers will now also be subject to the terms and conditions of Ameren's current transportation tariff requiring daily balancing.

It is the Movants' understanding that Ameren's 4<sup>th</sup> Revised Tariff Sheet No., 14 was written to reflect the balancing and cash out provisions that were previously being applied by Texas Eastern Transmission to its transportation customers. Therefore, Ameren is proposing to apply a tariff designed for Texas Eastern Transmission customers to customers of PEPL. This tariff is unreasonable unless it takes into account the balancing and cash out provisions applicable to PEPL transportation customers.

**C. The penalties resulting from the percentage tolerance levels are punitive and will encourage inefficient and detrimental gas purchasing and gas transportation decisions.**

On page 2 of the Staff Memorandum, in the second full paragraph Staff states:

Ameren's tariff currently allows a 5% imbalance tolerance level. PEPL currently has a 10% imbalance tolerance level. Ameren's tighter imbalance tolerance level

is for operational purposes. Ameren does not have the line-pack or on-system storage capabilities to account for its transportation customers' swing gas usage when they cause a significant imbalance. Ameren's distribution system is not physically able to handle these imbalances without accommodations on the PEPL system. All penalties collected by Ameren flow back through the Purchased Gas Adjustment Clause (PGA) to its firm sales customers. Ameren does not get to keep any penalties that are received from transportation customers who are out of balance.

Staff has also stated that it "considers the penalties that Ameren is proposing to implement to be reasonable to protect the integrity of its system."<sup>1</sup> Quite to the contrary, the penalties Ameren proposes are highly punitive and they are not rationally based. In fact, the lack of tolerance proposed by Ameren will encourage inefficient gas purchasing and gas transport decisions.<sup>2</sup>

If a customer is found to be short on any given day, the tariff compels the customer to in effect purchase PGA priced gas rather than gas at the market rate. Ameren's non transport customers reap the benefit. Simultaneously, the tariff encourages transport customers to be long on Ameren's system to avoid the PGA priced cash outs. The detriment of the narrow band of tolerance proposed by Ameren is most evident when considering an example where the market price of gas is higher than the PGA. In that event the LDC will be confronted with an issue related to the integrity of its system, since customers may, and can lawfully, choose to purchase the PGA gas from the LDC rather than on the open market. To meet demand, Ameren would purchase gas at the market rate and sell at the PGA rate, a burden the ratepayers (or shareholders) would ultimately shoulder.

Use of the PGA as part of the formula for a cash out charge is unreasonable in that the transport customer is being charged for costs it is already paying. The PGA includes not only the

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<sup>1</sup> See paragraph 7 of *Staff's Response to Commission Order directing Filing* to which the Staff Memorandum was attached.

<sup>2</sup> With respect to the percentages Ameren proposed to apply to cash outs, it was stated erroneously in paragraph 10 of Movants' Motion to Suspend that pool balances that are positive in excess of 5% will be cashed out at 110% of the indexed commodity price. That cash out percentage should have been 90% of the indexed commodity price.

cost of transported gas but also an element designed to recover the LDC's costs of operation. Transport customers pay for their gas cost to their respective suppliers and are already charged for pipeline upkeep in their current rates.

Movants emphasize that if Ameren continues to operate under the same balancing procedures as PEPL, there will be no additional risk to the integrity of its system.

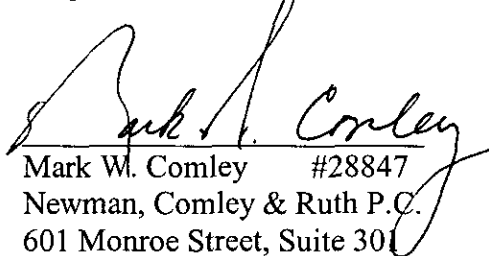
**D. The tariff is detrimental to the public interest**

In their motion to suspend, the Movants reported that the increased costs caused by the Ameren proposed tariff would be an unfair addition to the cost of business for transportation customers on the PEPL system. One of those customers is MFA.

OEMC has estimated that application of the Ameren proposed tariff to OEMC customers alone would translate into a monthly penalty of in excess of \$42,000 per month. Under the terms of the tariff, Ameren's non transport customers would receive a benefit of approximately \$504,000 annually from OEMC's transport customers annually. This is by far too high a cost to transportation customers when considering the very weak justification Ameren and Staff submitted for the tariff revision.

On the basis of the above and foregoing and on the Movant's Joint Motion to Suspend and Application to Intervene, which is restated herein, Movants respectfully request that the Commission reject the Ameren tariffs, suspend the same and hold a hearing on the reasonableness thereof, granting Movants intervention therein and the right to fully participate at hearing.

Respectfully submitted,

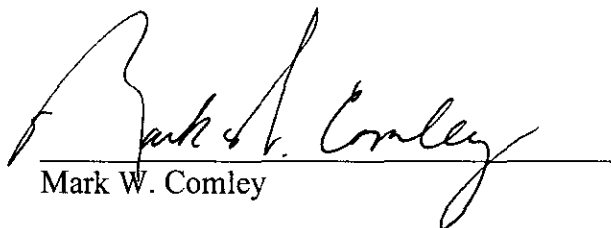


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Attorneys for MFA INCORPORATED and ONEOK  
ENERGY MARKETING COMPANY

### Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 28<sup>th</sup> day of September, 2004, to General Counsel's Office at [gencounsel@psc.state.mo.us](mailto:gencounsel@psc.state.mo.us); Office of Public Counsel at [opcservice@ded.state.mo.us](mailto:opcservice@ded.state.mo.us); Steven R. Sullivan at [ssullivan@ameren.com](mailto:ssullivan@ameren.com); Victor S. Scott at [vscott@aempb.com](mailto:vscott@aempb.com); and Paul Gardner at [info@gollerlaw.com](mailto:info@gollerlaw.com).

  
Mark W. Comley