

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

In the Matter of Union Electric Company d/b/a Ameren       )  
Missouri's Tariff Filing to Implement Changes to the       ) File No. GT-2011-0410  
Energy Efficient Natural Gas Equipment and Building       ) Tariff No. JG-2011-0620  
Shell Measure Rebate Program.                                       )

**MOTION TO STRIKE PORTIONS OF THE PREFILED SURREBUTTAL  
TESTIMONY OF HENRY E. WARREN  
AND MOTION TO STRIKE PORTIONS OF THE PREFILED REBUTTAL  
TESTIMONY OF RYAN KIND**

COMES NOW Union Electric Company d/b/a Ameren Missouri (Ameren Missouri or Company), and hereby requests the Missouri Public Service Commission (Commission) issue an order striking portions of the prefiled surrebuttal testimony of Missouri Public Service Commission Staff (Staff) witness Henry E. Warren, which was filed in this case on September 21, 2011, and of the prefiled rebuttal testimony of Ryan Kind, which was filed in this case on September 7, 2011. In support of this request, Ameren Missouri states as follows:

1. On September 7, 2011, Ryan Kind prefiled rebuttal testimony and on September 21, 2011, Henry E. Warren prefiled surrebuttal testimony in this case.
2. Ameren Missouri believes that portions of Mr. Warren's prefiled surrebuttal and a portion of Mr. Kind's prefiled rebuttal testimony are inappropriate and should be not be admitted by the Commission.

**Surrebuttal Testimony of Henry E. Warren**

3. The Commission should strike portions of Mr. Warren's prefiled surrebuttal testimony as it raises new issues rather than responding to issues raised in rebuttal testimony, which is not permissible under the Commission's rules (4 CSR 240-

2.130(7)(D). Specifically, on page 6, lines 2 through 19, Mr. Warren raises, for the first time, concerns with the Total Resource Cost (TRC) test calculations. These results were contained in the Company's prefiled direct testimony and the related workpapers were provided to Staff at the time of the filing. If Mr. Warren, or any other Staff member, had concerns about how those results were calculated, those concerns should have been raised in Staff's prefiled rebuttal testimony. Otherwise, Ameren Missouri is limited in the amount of time it can conduct discovery and is denied the opportunity to respond to the allegations.

4. Additionally, page 4, line 16 through page 5, line 11, and page 7, lines 18 through 25 should be struck from Mr. Warren's prefiled surrebuttal testimony. These sections purport to summarize Staff's arguments in Case No. GT-2011-0130. This case was resolved in its entirety by the Nonunanimous Stipulation and Agreement in Case No. GR-2010-0363 (Stipulation). Case No. GT-2011-0130 involved whether or not Ameren Missouri was allowed to stop funding its natural gas energy efficiency programs once it reached the monetary level set forth in its tariffs. That is not an issue in the current case. As such, the facts (as alleged by Mr. Warren) have no bearing upon the facts in the current case. Finally, Ameren Missouri would point out that the terms of the Stipulation speak for themselves and that the issue before the Commission is whether Ameren Missouri has complied with those terms of that Stipulation. No party in this case has argued that the language of the Stipulation is unclear and, as such, it cannot be argued that it is necessary to revisit the allegations in Case No. GT-2011-0130 in order to interpret the meaning of the language of the Stipulation.

### **Rebuttal Testimony of Ryan Kind**

5. Mr. Kind also includes a recitation of OPC's allegations from Case No. GT-2011-0130 on page 7, line 10 through page 10, line 13 of his prefiled rebuttal testimony. For the reasons set forth in paragraph 4 above, this portion of Mr. Kind's prefiled rebuttal testimony should be struck by the Commission.

WHEREFORE, for the reasons stated above, Ameren Missouri requests the Commission enter an order that strikes or otherwise disallows the above identified portions of the prefiled surrebuttal testimony of Henry E. Warren and of the prefiled rebuttal testimony of Ryan Kind, and prevent any witness from the Missouri Public Service Commission Staff or from the Office of the Public Counsel from presenting that testimony or otherwise entering it into evidence in this case; or from attempting to present evidence or argument in any other manner in this case regarding these issues.

Respectfully submitted,

UNION ELECTRIC COMPANY,  
d/b/a Ameren Missouri

/s/ Wendy K. Tatro

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## **CERTIFICATE OF SERVICE**

The undersigned certifies that true and correct copies of the foregoing have been e-mailed to the service list of record this 30<sup>th</sup> day of September, 2011.

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