Missouri Public Service Commission

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December 21, 1999

FILED

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Missouri Public
Service Commission

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

RE: Case No. EA-2000-37 In the matter of the Application of Union Electric Company, d/b/a/ AmerenUE, for approval of the transfer of generating assets by an affiliate to another affiliate

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and fourteen (14) conformed copies of a **STAFF MEMORANDUM IN SUPPORT OF UNANIMOUS STIPULATION AND AGREEMENT.**

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Very truly yours,

Steven Dottheim
Chief Deputy General Counsel
(573) 751-7489
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Enclosure
cc: Counsel of Record

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of Union Electric Company, d/b/a AmerenUE, for approval of the Transfer of Generating Assets by an Affiliate to Another Affiliate	))))	Case No. EA-2000-37

STAFF MEMORANDUM IN SUPPORT OF UNANIMOUS STIPULATION AND AGREEMENT

Comes now the Staff of the Missouri Public Service Commission (Staff) and files the Staff memorandum of Michael S. Proctor in support of the Unanimous Stipulation And Agreement, which was previously filed in the instant proceeding. As a result of the Unanimous Stipulation And Agreement and the Staff memorandum in support thereof, the Staff requests that the Commission issue an Order (1) adopting said Unanimous Stipulation And Agreement and (2) finding that, subject to the conditions set out in paragraph 21 of the Unanimous Stipulation And Agreement, the proposed transfer of the generation assets and liabilities of AmerenCIPS to an exempt wholesale generator (EWG), which is an affiliate of AmerenUE: (a) will benefit consumers, (b) is in the public interest and (c) does not violate Missouri State law. Said Unanimous Stipulation And Agreement was executed by Union Electric Company, d/b/a AmerenUE (AmerenUE or UE), a wholly owned subsidiary of Ameren Corporation (Ameren), the Staff and the Office of the Public Counsel (OPC). In support of this request, the Staff states as follows:

1. The findings sought by AmerenUE are required by 15 U.S.C. Section 79z-5a(c), which is Section 32(c) of the Public Utility Holding Company Act of 1935 (PUHCA). AmerenUE states in its Application at paragraph 14:

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> Section 32 of PUHCA requires that when an affiliate of a registered holding company transfers a previously rate-based generating facility to an EWG, that facility will be considered an eligible facility only if every State commission having jurisdiction over the retail rates and charges of the affiliates of the registered holding company determines that "allowing such facility to be an eligible facility (1) will benefit consumers, (2) is in the public interest, and (3) does not violate State law." 15 U.S.C. Section 79z-5a(c).

2. The Commissioners will recall that there is only one other case that has been filed with the Commission for a decision respecting making the findings which are required by the Energy Policy Act of 1992 EWG amendment of the Public Utility Holding Company Act of 1935. On March 1, 1999, UtiliCorp United, Inc. (UtiliCorp), d/b/a Missouri Public Service (MPS) filed an Application for an Order of the Commission that:

> (A) determined specifically that, in order to protect against abusive affiliate transactions, the Commission has sufficient regulatory authority, resources and access to books and records of UtiliCorp and Merchant Energy Partners Pleasant Hill, L.L.C. (MEPPH)[1] to exercise its duties under §32(k) of the Public Utility Holding Company Act of 1935 (PUHCA)[2] to ensure that a Power Sale Agreement (PSA) between UtiliCorp and MEPPH:
>
> (1) benefits consumers;
>
> (2) is in the public interest;
>
> (3) does not violate any state law; and
>
> (4) does not provide MEPPH with any unfair competitive advantage by virtue of its affiliation with UtiliCorp.

[1] UtiliCorp caused MEPPH to be established to engage in merchant energy activities, including the purchase and sale of power and construction of power plants. MEPPH is constructing a 500 MW combined cycle combustion turbine generation plant in Cass County, Missouri near the town of Pleasant Hill, which plant will be operated by MEPPH in order to meet its contractual obligations under the PSA. UtiliCorp stated in its Application that MEPPH (a) was not and would not be an "electrical corporation" in that it would sell electric power exclusively at wholesale, and, therefore, would not be engaged in the sale of electric power at retail to the general public, and (b) would be regulated by the Federal Energy Regulatory Commission (FERC) with respect to wholesale energy rates.

[2] Section 32(k) of PUHCA, 15 U.S.C. Section 79z-5a(k), is Section 711 of the Energy Policy Act of 1992.

(B) authorized UtiliCorp to enter into, execute and perform in accordance with the terms and conditions of the proposed PSA by and between UtiliCorp and MEPPH;

(C) authorized UtiliCorp to enter into, execute and perform in accordance with the terms of all documents reasonably necessary and incidental to the performance of the transactions which were the subject of the Application; and

(D) granted such other authority as might be just and proper under the circumstances.

MEPPH stated that once it had obtained this Commission's approval, MEPPH would file with the FERC a request for certification as an EWG and a request for approval of the PSA under the applicable provisions of PUHCA and the Federal Power Act (FPA).

UtiliCorp sought that the Commission make the findings required by Section 32(k) of PUHCA, 15 U.S.C. Section 79z-5a(k), because that section of PUHCA covers power sale agreements between an electrical corporation (Missouri Public Service division of UtiliCorp) regulated by the Commission and an EWG (MEPPH) which is an affiliate of that electrical corporation. AmerenUE is seeking that the Commission make the findings required by Section 32(c) of PUHCA, 15 U.S.C. Section 79z-5a(c), because that section of PUHCA covers affiliates (AmerenUE) of registered holding companies (Ameren) where another affiliate (AmerenCIPS) of that registered holding company seeks to have facilities become an EWG (Genco) when rates or charges of those facilities were in effect under the laws of a State (Illinois) as of October 24, 1992.

There was no stipulation and agreement in Case No. EM-99-369, not because the parties could not reach agreement, but because the parties just did not proceed in such a manner. The Staff filed recommendation memoranda specifying conditions that it deemed necessary in order for the Commission to grant the authority requested and which the Staff requested that the Commission adopt. OPC also filed a recommendation. UtiliCorp filed nothing in response to

the recommendations of the Staff and OPC. On April 22, 1999, the Commission issued an Order, in Case No. EM-99-369, finding that the Application of UtiliCorp should be granted, subject to the conditions recommended by the Staff and OPC, and the Commission specifically identified the conditions in its Order. Since there is a detailed stipulation and agreement in the instant case, the Staff believes that the Commission need not repeat in its Order all of the conditions in the Unanimous Stipulation And Agreement, but can proceed, as it has in other cases, by adopting the Unanimous Stipulation And Agreement and attaching a copy to its Order.

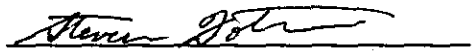
3. In one of the Staff recommendation memoranda filed in Case No. EM-99-369, the Staff cited to one state commission case as being on point (Section 32(k) PUHCA findings) and another State commission case as being related (Section 32(c) PUHCA findings) respecting a State conditioning its grant of PUHCA §32 findings. The two cases which the Staff cited in one of its recommendation memoranda in Case No. EM-99-369 are: Re Golden Spread Electric Cooperative, Inc., Docket No. 15100, Order, 176 PUR4th 587 (Tx.Pub.Util.Commn. 1997) and Re New England Power Co., DR 97-251, Order No. 22,982 (N.H.Pub.Util.Commn. 1998)(unreported decision). The Staff has identified two additional State commission cases where a State commission conditioned Section 32(c) PUHCA findings: Re Rockland Electric Co., Docket No. EM99030195, Summary Order (N.J.Bd.Pub.Util. 1999)(unreported decision); Re Jersey Central Power & Light Co., Docket No. EE98121413, Order (N.J.Bd.Pub.Util. 1999)(unreported decision).

4. AmerenUE requested that the Staff provide to AmerenUE a copy of the Staff's memorandum in support of the Unanimous Stipulation And Agreement prior to the memorandum in support being filed with the Commission. The Staff was willing to do so, and the Staff has done so. Thus, AmerenUE has had an opportunity to review the Staff's

memorandum in support and provide comments to the Staff. The Staff also provided to OPC a copy of the Staff's memorandum in support. Thus, OPC has had an opportunity to review the Staff's memorandum in support and provide comments to the Staff.

Wherefore the Staff hereby files its memorandum in support of the Unanimous Stipulation And Agreement and requests that the Commission issue an Order (1) adopting said Unanimous Stipulation And Agreement and (2) finding that, subject to the conditions set out in paragraph 21 of the Unanimous Stipulation And Agreement, the proposed transfer of the generation assets and associated liabilities of AmerenCIPS to an exempt wholesale generator (Genco), which is an affiliate of AmerenUE: (a) will benefit consumers, (b) is in the public interest and (c) does not violate Missouri State law.

Respectfully submitted,
DANA K. JOYCE
General Counsel



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Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 21st day of December, 1999.

Service List for
Case No. EA-2000-37
Revised: December 21, 1999

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MEMORANDUM

TO: Missouri Public Service Commission Official Case File
Case No. EA-2000-37

FROM: Michael S. Proctor MSP By SD
Chief Regulatory Economist, Electric Department

Director, Utility Operations Division/Date — General Counsel's Office/Date

SUBJECT: Staff's Memorandum In Support of the Unanimous Stipulation and Agreement in the matter of the Application of Union Electric Company, d/b/a AmerenUE, Under § 32(c) of the Public Utility Holding Company Act of 1935 concerning the transfer by Ameren UE's affiliate, AmerenCIPS, of all of AmerenCIPS' generating assets and associated liabilities to another affiliate, presently known as Genco.

DATE: December 20, 1999

Missouri Public Service Commission Determination under §32(c) of PUHCA

In order for AmerenCIPS to transfer its generating assets to an affiliate that will be an exempt wholesale generator (EWG), subparagraph 32(c) of the Public Utility Holding Company Act (PUHCA) of 1935 requires the Missouri Public Service Commission (Commission) to make the following determinations regarding the transfer of these generating assets:

1. It will benefit consumers;
2. It is in the public interest; and
3. It does not violate state law.

I. Background: Ameren's Proposals

Starting October 1, 1999, Ameren will begin to unbundle retail electric service in Illinois. As a part of this process, the utilities in Illinois have been encouraged by the Illinois Commerce

Commission[1] to submit proposals for corporate restructuring of generation in which the generation assets of the utility are transferred to an affiliate that would be solely involved in the competitive supply of electricity. The utility will then become the local distribution utility, and to the extent that it offers generation services to its retail customers, it will purchase the electricity from an affiliate.

The proposal by Ameren is somewhat more complex because subparagraph 32(a) of PUHCA does not allow an EWG affiliate (Genco) to directly sell into retail electric markets. Therefore, Ameren has also set up a non-exempt marketing company affiliate which will purchase electricity from Genco at a FERC approved rate, and will engage in both wholesale and retail competitive sales of electricity. This marketing company, under a power supply agreement (PSA) that is approved by FERC and which will expire on December 31, 2004, will also sell to AmerenCIPS the electricity it requires to serve customers continuing to take regulated service within its service territory.

There are two key components to Ameren's proposal that could potentially affect AmerenUE's Missouri retail ratepayers. First, at present, AmerenUE and AmerenCIPS jointly dispatch their generation and share cost savings and profit margins pursuant to the Joint Dispatch Agreement (JDA) that was agreed to as a part of the merger of Union Electric Company and Central Illinois Public Service Company. Under the JDA, each company is entitled to serve its load requirements from its own least-cost generation first, then from any available generation of the other company. In addition, other provisions of the JDA specify how the costs and benefits of off-system purchases and sales will be allocated between the two companies. Under the

[1] At page 9 of its September 14, 1998 Order on Petition for Rulemaking on Non-Discrimination in Affiliate Transactions for Electric Utilities, et al., Case Nos. 98-0013/98-0035, the Illinois Commerce Commission states: "Until this monopoly component of the vertically integrated utilities is separated from the utilities' power marketing efforts and other related activities, competition is less likely to flourish."

proposed transfer of generation assets to Genco, AmerenCIPS will assign its electric generation rights and obligations under the JDA to Genco.

Second, AmerenUE currently has 260 MW of capacity serving wholesale contracts that will expire at the end of the year 2000.[2] AmerenUE proposes to (1) release these customers, by not seeking to retain them beyond the expiration date of the existing contracts, and (2) use the 260 MW of capacity to serve its regulated Missouri retail and remaining wholesale customers. An additional 19 MW of capacity will be available when additional wholesale contracts expire during the year 2003.[3] As AmerenUE will no longer serve these wholesale customers on a regulated basis from its generation assets, Genco's marketing affiliate will instead bid to serve these customers on a deregulated basis as a competitive supplier of electricity.

These changes have resulted in significant modifications to AmerenUE's resource plans. Moreover, the new combustion turbines, which were initially planned to be owned by AmerenUE to meet AmerenUE's growing load (including all of its existing wholesale customers) will now be owned by Genco, and the AmerenUE capacity released from serving wholesale customers whose contracts are expiring will now be used to serve its growth in load being served at retail regulated rates. In essence, Ameren is proposing to separate its regulated and competitive generation businesses into two companies: AmerenUE for regulated generation business and Genco for competitive generation business.

[2] The wholesale customers whose contracts expire in 2000 are Citizens Electric Cooperative and the cities of Rolla, Farmington, Fredricktown and Owensville.

[3] The wholesale customers whose contracts expire in 2003 are the cities of California, Linneus and St. James.

TABLE 1: AMEREN'S PLANNED ADDITIONS OF GAS-FIRED GENERATION

CAPACITY	UNIT TYPE	LOCATION	ON-LINE DATE
103 MW	Combustion Turbine	Gibson City, IL	6/01/2000
103 MW	Combustion Turbine	Gibson City, IL	9/01/2000
103 MW	Combustion Turbine	Kinmundy, IL	2/15/2001
103 MW	Combustion Turbine	Kinmundy, IL	6/15/2001
160 MW	Combined Cycle	Grand Tower, IL	6/01/2001
160 MW	Combined Cycle	Grand Tower, IL	6/01/2001
103 MW	Combustion Turbine	Pinckneyville, IL	1/02/2002
103 MW	Combustion Turbine	Pinckneyville, IL	3/01/2002

Table 1 shows Ameren's planned generation additions, which Ameren proposes to assign to the EWG. In accord with the aforementioned modifications to its resource plans, AmerenUE provided documents to Staff on July 29, 1999, showing releases of 260 MW of existing generation capacity from serving wholesale customers once their contracts with AmerenUE expire at year-end 2000. This generation capacity will then be available to meet AmerenUE's Missouri retail and remaining wholesale summer peak demand in 2001. Table 2 shows the results on AmerenUE's capacity balance of this change, as well as the subsequent 19 MW of capacity serving wholesale customers being released during the year 2003 upon the expiration of certain wholesale contracts.

TABLE 2: AMERENUE'S CAPACITY BALANCE

	MW Capacity			MW Load			MW Capacity Balance		
Year	Existing Capacity	Net Purchases	Adjusted Capacity	Peak Demand	Wholesale Releases	Adjusted Load	Required Reserves	Actual Reserves	Excess (Shortage)
2000	7,993	837	8,830	7,822	0	7,822	1,173	1,008	-165
2001	7,993	722	8,715	7,922	-260	7,662	1,149	1,053	-96
2002	7,993	722	8,715	8,014	-260	7,754	1,163	961	-202
2003	7,993	722	8,715	8,114	-279	7,835	1,175	880	-295
2004	7,993	642	8,635	8,214	-279	7,935	1,190	700	-490

Table 2 shows that even with the wholesale customers being released from AmerenUE's system, upon the expiration of existing contracts, AmerenUE faces a need to add capacity. AmerenUE can meet its future capacity needs either through capacity additions to its generation or through competitive bids for power. It is likely that Ameren's Genco, or its marketing affiliate, will bid on meeting this need of AmerenUE for additional generation capacity. AmerenUE has been provided with copies of the Staff's recommendation memoranda filed in UtiliCorp United, Inc.'s recent EWG case, Case No. EM-99-369, as guidance on what the Staff expects regarding the soliciting and evaluation of competitive bids. In essence, what is required under the Staff's approach is that AmerenUE may enter into a future purchased power contract with Genco, or its marketing affiliate, only if Genco is determined to be the most cost effective offer through a competitive bidding process in which all bidders are provided with equal information and bidding opportunities.

If Genco is the successful bidder regarding meeting AmerenUE's capacity need, the requirements of subparagraph 32(k) of PUHCA, 15 U.S.C. Section 79z-5a(k), must be met. (This is the same subparagraph that applied to the power sales agreement between UtiliCorp United, Inc. and Merchant Energy Partners Pleasant Hill, L.L.C. in Case No. EM-99-369.) In order to protect against abusive affiliate transactions, subparagraph 32(k) of PUHCA provides that an electric utility company may enter into a contract to purchase electric energy at wholesale from an EWG that is an affiliate or associate company of the electric utility company, if every State commission having jurisdiction over the retail rates of such electric utility company makes each of the following specific determinations in advance of the electric utility company entering into such a contract:

> (A) a determination that such commission has sufficient regulatory authority, resources and access to books and records of the electric utility company and any relevant

associate, affiliate or subsidiary company to exercise its duties under this subparagraph; and

(B) a determination that the transaction:

(1) will benefit consumers;

(2) is in the public interest;

(3) does not violate any state law; and

(4) would not provide the EWG any unfair competitive advantage by virtue of its affiliation or association with the electric utility company.

The Unanimous Stipulation And Agreement is not intended to address the applicability of subparagraph 32(k) to the prospective situation of Genco or the marketing affiliate being the successful bidder for the provision of additional capacity to AmerenUE. This is a matter that the Commission may be required to address at a future time.

Respecting its proposal to release capacity from wholesale to serve retail, AmerenUE included in its filing, at page 15, a claim of expected decreases in fuel costs of from "$14 million to $18 million dollars per year," and an additional savings of "$23 million in fixed costs." The Staff has reviewed AmerenUE's work papers that support these claims, and these claimed benefits will be discussed in a subsequent section of this memorandum.

In addition to the two major changes proposed in AmerenUE's filing, other changes are also likely. First, Ameren Energy is currently the power marketer for both AmerenUE and AmerenCIPS. With AmerenCIPS no longer providing regulated generation services in Illinois, Ameren believes that it is likely that the FERC will require the power marketing function for Ameren Energy to be divided between serving the regulated generation business of AmerenUE and the unregulated generation business of Genco. Second, AmerenUE serves retail load in Illinois that will also be opened to competitive supply of generation. The instant proposal before

this Commission does not include any specific treatment of that retail load. Moreover, the assumption appears to be that AmerenUE will continue to supply its retail load in Illinois from its own generation. Third, any wholesale contracts that come to an end are subject to stranded cost recovery through FERC Order No. 888. Ameren's proposal to use the AmerenUE generation assets released from serving its wholesale loads in Missouri includes no specific treatment of any purported stranded cost liability.

II. Separating Changes Directly Applicable to Section 32(c) of PUHCA

With all of the above changes, the question arises as to which of these changes are relevant to the requirement that the Commission make certain findings under subparagraph 32(c) of PUHCA. In the following table the various changes discussed in the previous section are categorized by their relevance to various aspects of the Commission's regulatory responsibilities.

Table 3: Categories of Changes for Ameren

Section 32(c) of PUHCA	Electric Resource Planning	Deregulation
1. *Transfer* of all of the generation assets of AmerenCIPS to Genco. 2. Establishing a separate power marketing /trading entity for the regulated power supply business and the unregulated power supply business.	1. Assignment of Ameren's new gas-fired generation capacity to Genco. 2. *Release* of generation capacity from serving AmerenUE's wholesale customers once contracts expire and using that capacity to serve AmerenUE's regulated Missouri retail load and remaining Missouri wholesale load.	1. Competitive supply of AmerenUE's retail customers in Illinois. 2. The level of firm requirements load to be served by Genco. 3. Recovery of stranded cost by AmerenUE from its released Missouri wholesale customers.

It should be fairly obvious why the transfer of generation assets from AmerenCIPS to Genco is included under subparagraph 32(c) of PUHCA. Directly connected to this transfer of generation assets is Ameren's proposal for separate power marketing functions for its regulated and unregulated business, including the marketing of the power supplied by Genco.

At first it may appear that the assignment of Ameren's new gas-fired generation to Genco may also come under subparagraph 32(c) of PUHCA, but this subparagraph only applies to the transfer of generation assets that have been included in rate base to serve regulated load prior to the transfer of assets. Of course this proposal does affect the resource plans of AmerenUE.

The release of capacity serving AmerenUE's Missouri wholesale customers once their contracts with AmerenUE expire also affects the resource plans of AmerenUE and does not come under subparagraph 32(c) of PUHCA. This facet of AmerenUE's proposal can occur with or without the transfer of AmerenCIPS' generating assets to Genco; therefore, it is not of direct relevance with respect to AmerenUE's request for approval under subparagraph 32(c) of PUHCA.

While AmerenUE's application does not address how AmerenUE intends to serve its retail load in Illinois as that load is given competitive choice of supplier, AmerenUE's decision in this matter is clearly independent of the transfer of generation assets to Genco. At a future time, when AmerenUE makes a decision on the question of how it will serve its retail load in Illinois, the Staff expects AmerenUE to report that decision and the effect on its resource plan in its biannual resource planning meetings with the Staff and the Office of the Public Counsel (OPC).

The level of firm requirements load served by the proposed Genco will impact the fuel savings that AmerenUE will experience under the JDA. The level of firm requirements load served by Ameren through either AmerenCIPS or Genco generation assets is not directly related

to the proposal to transfer generation assets to Genco. Instead, the level of firm load requirements served by either AmerenCIPS or Genco is due to the deregulation of retail electric generation supply in Illinois and the competitive position of the generation assets currently held by AmerenCIPS.

The stranded cost recovery respecting generation assets used to serve the Missouri wholesale customers released by AmerenUE, as the wholesale contracts with these customers expire, is independent of Ameren's transfer of generation assets to Genco and is not related to AmerenUE's resource plans. However, stranded cost recovery respecting these generation assets is an extension of AmerenUE's proposal to release generation capacity from serving Missouri wholesale load once these customers' contracts with AmerenUE expire and assigning that capacity to serve regulated retail load and remaining wholesale load.

The discussion in the next section of this memorandum deals with what is needed to meet the requirements under subparagraph 32(c) of PUHCA.

III. Recommendation for Commission Findings Under Section 32(c) of PUHCA

A. Issues Related to the JDA

The effect on Missouri retail ratepayers of the transfer of AmerenCIPS generating assets to Genco is determined by the subsequent treatment of this transfer of assets in the JDA. With the transfer of AmerenCIPS' generation assets to Genco, the JDA will be modified to replace the AmerenCIPS' name with respect to the ownership of the generation assets in the JDA with that of Genco. Genco will operate in a similar fashion as AmerenCIPS has operated in the past; i.e., to meet whatever commitments it has regarding firm load requirements. The difference will be that firm load requirements in Illinois will not be determined by the retail jurisdiction; rather they

will be determined by competition in the retail electric markets. While the allocation of system generation costs, off-system demand and energy costs and off-system sales margins may change due to retail competition in Illinois, they will not change as a direct result of the transfer of generation assets from AmerenCIPS to Genco.

The major concern of the Staff is that as the process of retail competition evolves in Illinois, additional and substantive changes to the JDA may be required. Thus, a bottom-line condition for maintaining the interests of Missouri ratepayers from detriment is that any substantive changes to the JDA must be submitted to this Commission for approval.

In addition, the Staff has concerns regarding the information that the Staff is currently receiving from Ameren regarding the joint dispatch of generation and the application of the JDA. These concerns relate to the Staff's ability to perform an effective audit of fuel costs that are properly allocable to AmerenUE under the JDA. The information missing from what is currently supplied to the Staff on a monthly basis is the following:

1. Identification of amount, cost and purchasing entity for each capacity purchase made by AmerenUE, AmerenCIPS/Genco and by any other entities or agents engaging in such purchases on behalf of the two generating parties or on behalf of the joint system;

2. Identification of hourly energy, cost and purchasing entity for each net purchase and sale made by AmerenUE, AmerenCIPS/Genco and any other entities or agents engaging in such purchases on behalf of the two generating parties or on behalf of the joint system; and

3. Hourly net system load requirements (firm load requirements) for AmerenUE and AmerenCIPS/Genco.

Without this information it is impossible for the Staff to determine whether the allocations of fuel costs are being made in accordance with the requirements of the JDA. Thus, to protect the public interest through its audit function, it is necessary that this information be provided by Ameren to the Staff.

B. Issues Related to Potential Changes in Ameren's Power Marketing/Trading Function

Currently Ameren Energy is the power-marketing agent for both AmerenUE and AmerenCIPS. In this role, Ameren Energy is a power trader acting on behalf of two regulated utilities with generation assets. With the shift to deregulation in Illinois, the generation portion of AmerenCIPS will no longer be regulated, and irrespective of whether AmerenCIPS transfers its generation assets to Genco, purchases and sales associated with the AmerenCIPS/Genco generation assets will no longer be made to benefit regulated ratepayers in Illinois. Thus, there are potentially different outcomes from the power marketing of energy and capacity from the generation assets of AmerenUE than from the generation assets of AmerenCIPS or Genco.

One possible method for dealing with this difference is to have two separate power marketing groups, one for AmerenUE (regulated) and another one for Genco (unregulated). Ameren believes that two separate trading groups may be required to comply with FERC regulations. If this occurs, then Ameren will need to develop:

1. Specific rules that define the information that can be provided to each trading group by the joint dispatcher;
2. Specific procedures that define the roles for each trading group; and
3. Procedures that govern the way in which trading activities will be treated in making JDA allocations.

The cost savings from off-system purchases and the profit margins from off-system sales will be distributed between AmerenUE and Genco according to specifications in the JDA. The JDA specifies how off-system purchases are to be allocated between the two companies (AmerenUE and Genco), depending on which "Generating Party" contracts for the purchase (see section 6.07.b at page 9 of the JDA). Other off-system purchases can be made for the jointly dispatched system and are then allocated between the two companies (see section 6.07.d at page 10 of the

JDA). What is not clear is whether the term "Generating Party" refers only to AmerenUE and Genco, or in addition, would also apply to separate power marketing / trading groups representing the two companies. The definition of Generating Parties in the JDA states that this term shall mean "those Parties owning Generating Resources." In discussions with Ameren, the Staff determined that it is Ameren's intent to modify the JDA where it currently reads "Generating Party," to read "Generating Party or an agent acting on its behalf." This change will involve a further amendment to the JDA.

It is also important to note that when purchases of cheaper energy are made on behalf of the Ameren generation system, the objective is to minimize overall costs, regardless of whether those cost savings are allocated to the regulated or unregulated companies. As long as the JDA governs the distribution of cost savings and sharing of profit margins, there should be no unresolved conflicts regarding transactions between the two affiliates, such as a deregulated affiliate buying power at one price and selling that power to a regulated affiliate at a higher price.

Consider a scenario where Ameren decides to give to one of the two trading entities the responsibility to engage in off-system purchases to minimize the total cost for the combined generation systems. In this instance, a potential conflict arises if the trading entity chosen for this activity is the agent for Genco. When faced with a purchase opportunity that is lower in cost than Ameren's incremental cost of generation, the trading agent for Genco has to make a decision as to whether to provide that low-cost opportunity to the Ameren system, or to keep it for itself and resell for profit. In the short-run, since Missouri does not have a fuel adjustment clause, there is no immediate impact from the manner in which this opportunity is treated. However, in the long run, it is very important to clarify who is doing what and for whom.

It is important to clarify the roles of whatever power marketing affiliates Ameren may decide to create. Therefore, the Staff has taken the position that as a condition to the Commission making the findings required under subparagraph 32(c) of PUHCA, Ameren must agree to file for further approval by this Commission of any additional modification to the JDA that may be required. Ameren has agreed to this condition. In addition, with respect to basic concepts related to affiliate transactions, Ameren must clearly define the roles of the power marketing affiliates and how their trading activities will affect the allocations pursuant to the JDA. As Ameren develops the roles of the two separate power marketing groups, it should seek agreement with the Staff regarding the definition of the roles of the separate trading entities, including information to be provided to the separate trading entities from the joint dispatcher. Ameren has accepted this condition. If agreement can be reached, Ameren and the Staff will file this agreement with the Commission with an explanation. If agreement cannot be reached, then the parties will submit their differences to the Commission for resolution.

In addition to raising concerns about roles and allocations related to two separate trading entities, there is another Staff concern regarding which power-marketing group, regulated or unregulated, is assigned the best facilities and personnel. In order to ensure a level playing field, Ameren has committed to the following conditions regarding these two separate power marketing / trading groups:

1. Ameren will arrange for the two separate power marketing / trading groups to share systems and software that are applicable to both power marketing / trading groups;

2. Ameren will offer comparable terms and conditions of employment for comparable jobs within each of the power marketing / trading groups;

3. Ameren will require both power marketing / trading groups to operate as full-service power marketing / trading entities; and

4. Ameren will maintain separate records for each power-marketing / trading group over the next five years comparing the systems, software, employees, cost savings and profit margins.

C. Determinations Related to the Transfer of Generation Assets

Commission findings that the proposal to transfer generation assets from AmerenCIPS to Genco meets the requirements of subparagraph 32(c) of PUHCA should not be delayed until Ameren makes the determination regarding the roles of the possible separate power marketing / trading affiliates. Rather, Ameren's commitment to file at a later date, but prior to beginning active commercial operations, for Commission approval of a modification to the JDA and for specification of roles of separate power marketing (trading) functions is sufficient to proceed on the question of transferring generation assets to an affiliate in a timely fashion. With respect to this question, the following is the Staff's conclusion regarding each of the findings required by subparagraph 32(c) of PUHCA.

1. The transfer of generating assets from AmerenCIPS to Genco will benefit consumers.

Because of the different goals of regulated and unregulated businesses, there may be structural benefits from having a separate affiliate company for generation. Specifically, this separation of the competitive generation function from the regulated transmission and distribution function should allow each separate entity to focus on its business without the distraction of a second business that serves different markets. One of the structural benefits may be to enable Genco to operate more efficiently in competitive generation markets than would be possible if the competitive generation function were to remain a part of an integrated utility. This operational efficiency will flow through the JDA to AmerenUE's retail electric customers in Missouri. In addition, having the competitive generation and marketing functions separated from the utility transmission

and distribution systems should enhance competition by decreasing the potential for market power abuse. This should improve the efficiency of generation markets, which would likewise be of benefit to retail electric customers in Missouri.

2. ***The transfer of generating assets from AmerenCIPS to Genco is in the public interest.***

The public interest is met when electricity is reliably provided to end-use consumers at the lowest expected cost consistent with reasonable levels of risk associated with uncertain factors.[4] The JDA is written to share the benefits of low cost generation from the joint dispatch of the generation of AmerenUE and AmerenCIPS. With the transfer of AmerenCIPS generation assets to Genco and replacing AmerenCIPS with Genco in the JDA, this sharing of low-cost generation is preserved. However, it is important to determine the impact that having two separate power marketing / trading groups would have on the sharing of cost savings.

3. ***The transfer of generating assets from AmerenCIPS to Genco does not violate Missouri law.***

Staff counsel has advised that Missouri State law does not prohibit any utility from entering into a joint dispatch agreement with a non-regulated affiliate. The proposed transfer of generating assets does not involve assets owned by a Missouri utility, although it does involve the assets of an affiliate and the Commission does have jurisdiction over affiliate transactions. (Also, no electrical corporation may transfer or otherwise dispose of any part of its system necessary or useful in the performance of its duties to the public without first obtaining an order of the Commission authorizing it to do so.)

While the Staff is recommending making the findings required for the transfer of

[4] Uncertain factors relevant to the generation of electricity include such things as plant outages, load growth, fuel costs, as well as changes in environmental requirements.

AmerenCIPS' generating assets to an EWG for purposes of retail competition in Illinois, this is not an endorsement of the same treatment for any utility in Missouri. If and when legislation on retail electric competition is passed by the Missouri General Assembly and signed into law by the Governor, the type of market structure determined by that law and any proposals to deal with purported stranded costs and market power issues could have a significant impact on the Staff's recommendation regarding corporate restructuring (e.g., any proposal to transfer generation assets to an affiliate EWG).

IV. POTENTIAL SAVINGS FROM USING AMERENUE'S RELEASED GENERATION FOR SERVING ITS REGULATED MISSOURI RETAIL LOAD

It is important to note that the claimed potential savings from AmerenUE's proposal to release generation capacity from existing Missouri wholesale customers once their contracts expire, in order to serve its Missouri retail and its remaining Missouri wholesale customers, is independent[5] of the transfer of AmerenCIPS generation assets to Genco. From the Staff's perspective, these two proposals are independent, although AmerenUE has sought to link them so as to show that the EWG proposal meets the "will benefit consumers" and "is in the public interest" criteria of subparagraph 32(c) of PUHCA. It is important that the Commission is informed regarding this facet of AmerenUE's proposal. This does not mean that the Commission is required or is even being asked to pre-approve AmerenUE's resource planning strategy. Indeed, in its 1993 rulemaking on electric resource acquisition (4 CSR 240-Chapter 22), this Commission promulgated rules that focused on the approval of the resource acquisition

[5] These two proposals are independent because the release of the generation capacity from serving some of AmerenUE's wholesale customers could be done either with or without the transfer of AmerenCIPS generation assets to Genco.

process, not the outcome. Since the Commission's adoption of 4 CSR 240-Chaper 22, there has been only one case in which the Commission was asked to evaluate whether or not the resource chosen by an electric utility was least cost prior to introducing the costs associated with the resource into rates.[6] This request occurred because one of the options that was rejected by the utility was a cogenerator, and under the Public Utility Regulatory Policies Act of 1978 (PURPA), utilities are required to purchase from cogenerators that are competitive under an avoided cost criterion.

At this time, the Staff has not performed a detailed analysis of whether the option proposed by AmerenUE is least cost. In keeping with normal Commission practice, such an analysis would be performed at the time these costs are sought to be included in AmerenUE's rates. The following is a discussion of the savings AmerenUE expects to result from its proposed release of generation capacity from serving some of its Missouri wholesale load and committing that released generation capacity to serve regulated Missouri retail and remaining Missouri wholesale loads.

A. Fuel Savings

AmerenUE estimates fuel cost savings from no longer serving some of its wholesale customers from existing generation as $14.1 million in 2001, $14.8 million in 2002, $15.4 million in 2003 and $17.6 million in 2004. These estimated savings are based on fuel cost models that compare a scenario in which wholesale customers continue with AmerenUE throughout this four year period to one in which wholesale customers leave the AmerenUE system when their contracts expire. In these original comparisons, the ownership of the new combustion turbines was assumed to go to AmerenUE. The Staff requested an additional fuel

[6] Alstrom Development Corporation vs. Empire District Electric Company, Case No. EC-95-28, Report And Order, 4 Mo.P.S.C.3d 187 (1995).

cost model run that would include the ownership of the new combustion turbines starting and staying with Genco. This additional run compares a base case, in which AmerenUE adds new gas-fired capacity to meet its load growth if it continues to serve these wholesale customers, to a case in which AmerenUE releases these wholesale customers and the new combustion turbines start and stay with Genco. Thus, the estimate of fuel cost savings flows from the difference between the fuel costs incurred under AmerenUE's existing generation mix and those that would result if additional gas-fired generation were added to that mix. Because AmerenUE's existing generation mix is less expensive with respect to fuel costs when compared to new combustion turbines that would otherwise be needed to meet load growth, it is clear that there will be fuel cost savings for AmerenUE's remaining customers. With respect to fuel savings, the additional fuel cost model run showed only slightly less average fuel cost savings (see Case 1 on Table 4). Because gas-fired generation is primarily run to meet peaking requirements, on an expected cost basis, these are not truly large savings. However, as AmerenUE points out in its filing, through the JDA, AmerenUE will be entitled to energy from any available Genco units, and the planned additions of gas-fired generation by Genco give AmerenUE an additional hedge against high electric energy prices on the spot market.

The Staff also asked AmerenUE to run fuel model cases in which Genco is able to sell up to its 15% reserve margin. The impact of this almost doubling of Genco sales is to increase the fuel costs for AmerenUE, and has nothing to do with releasing wholesale load. In comparing two cases where AmerenUE continues to serve wholesale load, owns the new combustion turbines, but Genco load increases, AmerenUE would experience fuel cost increases from $19.6 million in 2001 up to $41.8 million in 2004 (see Case 2 in Table 4). It is important to note that this result is totally related to a potential outcome of retail deregulation in Illinois, and has nothing to do with

AmerenUE's proposal to release wholesale load. In fact, when AmerenUE's proposal to release wholesale load is combined with the ownership of the new combustion turbines by Genco rather than by AmerenUE, the result is to produce fuel cost savings of from $19.6 million in 2001 up to $27.3 million in 2004 (see Case 3 in Table 4). The net effect of these fuel cost savings is to reduce the fuel cost increases from Genco's increased load to $0.1 million in 2001 up to $14.5 million in 2004. The following table shows the results for the various runs discussed above.

TABLE 4: CHANGES IN FUEL COSTS
(Millions of Dollars)

Case 1	Genco Load = CIPS forecast of regulated load 400 MW of new CTs transferred to Genco AmerenUE releases Wholesale Load			
Fuel $ Savings	2001	2002	2003	2004
	-$14.2	-$15.2	-$16.3	-$17.0
Case 2	Genco Load = Up to 15% reserve margin 400 MW of new CTs owned by UE AmerenUE keeps Wholesale Load			
Fuel $ Increases	2001	2002	2003	2004
	$19.7	$28.5	$34.5	$41.8
Case 3	Genco Load = Up to 15% reserve margin 400 MW of new CTs transferred to Genco AmerenUE releases Wholesale Load			
Fuel $ Savings	2001	2002	2003	2004
	-$19.6	-$22.1	-$24.8	-$27.3

B. Fixed Investment Cost Savings

AmerenUE estimates savings on capacity costs by comparing an embedded cost of $322/kW for its existing generation to $390/kW for newly installed combustion turbine capacity, where both figures are based on name plate capacity ratings. The problem with a comparison of name plate ratings is that the new combustion turbine name plate ratings are very likely to be their actual ratings, while AmerenUE's existing generation has a total name plate rating of 8,616 MW, but actual summer ratings of 7,993 MW (see Table 2), a difference of 623 MW. This difference

alone increases the embedded cost price of AmerenUE's existing units from $322/kW to $343/kW. However, this higher cost is still below the estimated cost of installing new combustion turbine generation at $390/kW.

C. Fixed O&M Expense Comparisons

In its filing, AmerenUE failed to make comparisons between the fixed O&M expense of its current generation capacity mix and the expected fixed O&M expense for a new combustion turbine. Based on an average computed from the data in AmerenUE's 1995 through 1998 FERC Form 1 filings, AmerenUE has experienced a fixed O&M expense of just over $27/kW/year. Of this, fixed O&M expense for non-steam, non-nuclear and non-hydraulic (i.e., non-hydroelectric) averaged only $2.10/kW/year and did not exceed $3.00/kW/year over this four year period. Based on information obtained by Staff from both utility and non-utility sources, the expected fixed O&M expense for a new combustion turbine is in the range of $4/kW/year. Comparing this to AmerenUE's average fixed O&M expense of $27/kW/year gives a difference of $23/kW/year. This difference of $23/kW/year should have been included in AmerenUE's comparison of fixed costs.

The fixed O&M cost difference could be subtracted from the fuel savings to determine the impact on the comparative fuel cost advantage claimed by AmerenUE. Multiplying the fixed cost difference of $23/kW times 260,000 kW would diminish fuel cost savings by just under $6.0 million per year. With expected fuel cost savings exceeding these levels, it appears that the overall advantage is in favor of AmerenUE's current generation. However, because the realization of fuel cost savings is more uncertain than the realization of savings for fixed O&M cost, this comparison leaves some degree of uncertainty regarding the overall advantage.

As the time period over which AmerenUE's current generation is substituted for new combustion turbine capacity is extended, the fixed O&M cost difference will result in a diminishing fixed cost advantage, and possibly a disadvantage for AmerenUE's current generation over comparable fixed costs for a new combustion turbine. However, a detailed cost study of the long-term implications should include the impacts of a declining rate base on both fixed investment cost and fixed O&M cost. Because the Staff views this part of AmerenUE's proposal as being independent of the PUHCA issues, it has not performed this type of detailed analysis.

V. STRANDED COST RECOVERY FROM MISSOURI WHOLESALE CUSTOMERS RELEASED FROM THE AMERENUE SYSTEM

Probably the most difficult question to answer is whether the transfer of embedded cost generation from AmerenUE wholesale customers to its retail customers includes a greater exposure to stranded costs for the retail customers. As stated previously herein, in its findings pursuant to subparagraph 32 (c) of PUHCA regarding the transfer of generation assets from AmerenCIPS to Genco, the Commission is not required to preapprove AmerenUE's proposal to (1) release existing generation from serving the load of wholesale customers once their contracts with AmerenUE expire, and who thereafter will be served competitively, and (2) have that released generation thereby available to serve its regulated native Missouri retail and remaining wholesale loads. In addition, the Commission is not required to address any stranded cost issue, unless and until either the Missouri General Assembly directs it to do so or an electrical corporation files a proposal that requires it to address the matter. Nevertheless, the above question is valid in terms of looking to implications that the proposed capacity release could have at some future time.

Depending on the precise treatment of fixed O&M expense, AmerenUE's estimate of fixed generation costs for its existing capacity, inclusive of Callaway, appears to be close to estimates of fixed generation costs for adding new combustion turbines. Over the long-run, the cost of adding new combustion turbines should come close to matching the market price for capacity. Since the difference between market price and embedded cost is a measure used for stranded costs, it would appear that there is a relatively small risk of stranded fixed costs on the AmerenUE system. If, in addition, AmerenUE's energy costs were at or below market levels, then there would be no stranded generation costs associated with AmerenUE's direct embedded cost of generation. Even if this is not the case, if the capacity release from wholesale to retail is the least-cost alternative, this release of existing generation capacity to serve regulated load would minimize the potential for stranded cost.

The stranded cost risk that will increase for Missouri retail customers is the loss of recovery of overhead costs from AmerenUE's wholesale customers due to AmerenUE's release of these customers. Based on simple allocation formulas[7] applied to overhead costs reported in AmerenUE's FERC Form 1 data for 1998, the Staff estimates overhead costs of 0.44 ¢/kWh for the generation component of AmerenUE's costs. At load factors in the range of 55% to 65%, the 260 megawatts of released wholesale load translates to 1.2 to 1.5 million megawatt-hours of sales, and at $4.40/MWh in overhead costs, this results in a loss of from $5.5 to $6.5 million dollars per year in revenues. In regard to this loss of overhead cost recovery, the Staff recommends that when these wholesale customers are released, and to the extent that these overhead costs represent stranded costs, AmerenUE should actively pursue, through a filing at the FERC, a stranded cost charge for the recovery of these otherwise lost revenues which are

[7] General plant is allocated to generation, transmission, distribution and customer functions based on direct net plant, while administrative and general expense is allocated to these same functions based on direct labor costs.

needed to recover these overhead costs. Respecting subsequent retail competition in Missouri, the Staff will argue against the recovery of these costs from Missouri retail customers on the basis that if these are in fact stranded costs, they should have been recovered from the wholesale customers which were released from the AmerenUE system.

VI. SUMMARY OF FINDINGS AND CONDITIONS

The Staff recommends that the Commission approve AmerenUE's request for affirmative findings under subparagraph 32(c) of PUHCA relating to the proposed transfer of AmerenCIPS' generating assets to Genco as an EWG. However, this recommendation is based on AmerenUE having agreed in the Unanimous Stipulation And Agreement to meet the following conditions, which are more fully developed in the Unanimous Stipulation And Agreement filed in this case on November 3, 1999 :

1. Joint Dispatch Agreement (JDA) Conditions.
   a. AmerenUE agrees that all substantive proposed changes to the JDA between AmerenUE, AmerenCIPS and Genco shall be submitted to the Missouri Commission for approval.
   b. AmerenUE agrees to provide Staff with the following information on a monthly basis, which is not currently supplied to Staff:
      (1) Identification of amount, cost and purchasing entity for each capacity purchase made by AmerenUE, AmerenCIPS/Genco and by any other entities or agents engaging in such purchases on behalf of the two generating parties or on behalf of the joint system;
      (2) Identification of hourly energy, cost and purchasing entity for each net purchase and sale made by AmerenUE, AmerenCIPS/Genco and by any other entities or agents engaging in such purchases on behalf of the two generating parties or on behalf of the joint system; and
      (3) Hourly net system load requirements (firm load requirements) for AmerenUE and AmerenCIPS/Genco.

2. Trading Company or Function
   a. Prior to beginning active commercial operation of a second trading company or function, AmerenUE agrees to seek agreement from the Staff respecting the rules and procedures that will govern the operation of the JDA, including definition of the roles that the separate trading companies or functions will have and how trading activities will be

treated in making JDA allocations. If such an agreement cannot be reached, then AmerenUE and Staff should submit the matter to the Commission for resolution.

b. If Ameren utilizes separate trading groups, it will commit to the following conditions regarding these groups:
   1) To arrange for the two separate trading groups to share systems and software that are applicable to both trading groups;
   2) To offer comparable terms and conditions of employment for comparable jobs within each of the trading groups;
   3) To require both trading groups to operate as full-service power marketing entities; and
   4) To maintain separate records for each trading group over the next five years comparing the systems, software, employees, cost savings and profit margins.

3. Resource Planning Conditions
   a. AmerenUE agrees that by granting the relief requested by AmerenUE in this case, the Commission is not pre-approving the method that AmerenUE has chosen to meet its near-term capacity needs. Specifically, the Commission is not pre-approving AmerenUE's proposal to release some of its existing generation from serving wholesale customers in order to serve its remaining regulated load.
   b. AmerenUE agrees that any future purchased power contract with Genco or its marketing affiliate will only be entered into if Genco is determined to be the most cost effective offer, giving due consideration to reliability and financial viability, through a competitive bidding process in which all bidders, including Genco or its marketing affiliate, are provided with equal information and bidding opportunities.
   c. Requests for Proposals ("RFPs") made available to Genco or Marketing Company for purposes described above will be provided to Staff prior to the first time such RFPs are issued. Within 20 days, the Staff will review the RFP and provide AmerenUE with comments. Specifically, such RFPs should include evaluation criteria, and further review by Staff would not be needed if no substantive changes are made to the RFP (e.g., no changes in evaluation criteria). At the time the final RFP is sent out to bidders, AmerenUE should provide Staff with a copy of the final RFP.
   d. AmerenUE should keep the Staff informed of its decisions regarding acquisition of power through purchased power contracts by sending to the Manager of the Commission's Electric Department the following:
      (1) A description of the resource needs and acquisitions;
      (2) The impact of the additional generating capacity resources on capacity reserves;
      (3) The proposed ratemaking treatment for the additional generating capacity resources;
      (4) A copy of all proposals received for purchased generating capacity; and
      (5) Documentation of AmerenUE's acquisition decisions, including:
         (i) A description of the process used in deciding to acquire the additional generating capacity resources;
         (ii) A copy of AmerenUE's evaluations of the resource alternatives; and
         (iii) AmerenUE's reasons for its decisions.

4. Stranded Cost Conditions
   a. AmerenUE agrees to actively pursue all reasonable means allowed by the FERC to recover any possible stranded costs that may be related to the release of AmerenUE's wholesale customers.
   b. With the assignment to Genco of the new gas-fired generation, AmerenUE agrees not to seek any future stranded costs related to these specific generation facilities. This condition would not necessarily apply to future AmerenUE purchased power contracts with Genco, which include generation from these units.

In addition to the above conditions, the Unanimous Stipulation And Agreement includes language that protects the positions of Ameren and Staff regarding such things as not implying future ratemaking treatment, confidentiality of materials and various other matters. Also, since the OPC is a party to the Unanimous Stipulation And Agreement, where either information is required to be provided by AmerenUE or agreement by AmerenUE with Staff is required, the OPC is named as being included in the actions and agreements that are required from AmerenUE.