

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
March 18, 1999

CASE NO: EM-96-149

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Enclosed find certified copy of ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 18th
day of March, 1999.

In the Matter of the Application of Union)
Electric Company for an Order Authorizing:)
(1) Certain Merger Transactions Involving)
Union Electric Company; (2) The Transfer)
of Certain Assets, Real Estate, Leased) Case No. EM-96-149
Property, Easements and Contractual)
Agreements to Central Illinois Public)
Service Company; and (3) In Connection)
Therewith, Certain Other Related)
Transactions)

**ORDER DENYING REQUEST FOR AN ORDER ESTABLISHING FURTHER
PROCEEDINGS WITH RESPECT TO THE MEANING OF THE GOVERNING LEGAL
STANDARD AND ORDER ESTABLISHING PROCEDURAL SCHEDULE**

On September 15, 1998, Union Electric Company d/b/a AmerenUE (AmerenUE) filed its Weather-normalized Data for Rate Reduction as required by Section 6 of the Stipulation and Agreement approved by the Commission in its Report and Order issued February 21, 1997. In Section 6, Rate Reductions, the Stipulation and Agreement provided that if the review process of the earnings data is not available, or the weather normalization review process did not allow for a September 1, 1998 effective date, an additional credit will be made equal to the excess revenues billed between September 1, 1998 and the effective date of the rate reduction. This credit is to be made at the same time and pursuant to the same procedures as the Sharing Credits provided for in Case Nos. ER-95-411 and EO-96-14.

On November 24, the Office of the Public Counsel (Public Counsel) filed its Notice in Case No. EO-96-14 and Case No. EM-96-149 pursuant to paragraph 3.f.x. of the Stipulation and Agreement in Case No. ER-95-411. Case No. EO-96-14 was opened by order of the Commission in the Report and Order issued in Case No. ER-95-411 to monitor the Experimental Alternative Regulation Program. Paragraph 3.f.x. of the Stipulation and Agreement requires signatory parties to file notice within 30 days after the final report is filed regarding areas of disagreement not previously brought to the attention of the Commission. Public Counsel listed the areas of disagreement to include software, consultant costs, dues and donations, merger and acquisition costs, advertising costs, decommissioning deposits, and plant held for future use.

On November 25, AmerenUE filed its Corrected Final Earnings Report and Corrected Proposed Sharing Report for the Third Sharing Period (July 1, 1997 - June 30, 1998). Corrections were noted with respect to deferred income taxes, average transmission plant balance and nuclear fuel inventory.

On November 25, Staff filed its Motion for Leave to Late File Initial Report for Third Year Sharing Credit Calculation and Initial Report Respecting Weather Normalization of Earnings Shared with Ratepayers in Case No. EO-96-14 and Case No. EM-96-149. No objections were received. The Commission will grant the requested leave.

Staff also filed its Motion for Setting an Expedited Early Prehearing Conference in Case No. EO-96-14 and EM-96-149 on November

25. In its Motion for Setting an Expedited Early Prehearing Conference, Staff stated that it is proceeding pursuant to paragraphs 3.f.vii., 3.f.viii., 3.f.ix., and 3.f.x. of the Stipulation and Agreement approved by the Commission in Case No. ER-95-411, not paragraph 3.f.vi.

In addition, Staff stated that it is also proceeding pursuant to the Commission's Report and Order in Case No. EM-96-149, Section 6: Rate Reductions of the approved Stipulation and Agreement. Staff noted its dispute with AmerenUE regarding the proper methodology for weather normalizing earnings shared with or credited to customers for the three alternative regulation plan years. Staff stated that it disagrees with changes in the data set that AmerenUE proposes to use in the normalization calculations. Staff and Public Counsel reiterated their arguments and added additional information arguing these same positions in their separate responses to AmerenUE's Request for Commission Guidance on December 3 filed in both Case No. EO-96-14 and Case No. EM-96-149.

On January 15, 1999, a prehearing conference was held in Case No. EO-96-14. At the prehearing conference, the Regulatory Law Judge clarified that Case Nos. EO-96-14 and EM-96-149 were not consolidated cases and that the same single pleading should not be filed in both cases. On January 28, AmerenUE filed a corrected version of the weather-normalized data for determining the rate reduction required by Section 6 of the Stipulation and Agreement approved in Case No. EM-96-149.

On February 1, Staff filed a proposed procedural schedule indicating that the parties agree upon the specific dates for a procedural schedule. Staff further stated that the parties did not agree on whether all parties should be permitted to file direct, rebuttal and surrebuttal testimony and schedules.

On February 4, AmerenUE filed its response to Staff's proposed procedural schedule. AmerenUE objected to allowing Staff and Public Counsel to file direct and surrebuttal testimony because AmerenUE believed the company should have the first and last word in filing of testimony.

On February 5, AmerenUE filed Union Electric Company's Reply to Staff and Public Counsel's Response to Request for Commission Guidance or, in the Alternative, Union Electric Company's Request for an Order Establishing Further Proceedings with Respect to the Meaning of the Governing Legal Standard in Case No. EM-96-149. In this pleading, AmerenUE argued that the only issue that the Commission should consider is the definition of the term "manipulation". AmerenUE argued that as long as AmerenUE had calculated the sharing credits and rate reduction using their long-established accounting policies, Staff and Public Counsel should not be permitted to question the results.

On February 17, Staff filed its response to AmerenUE's Request for an Order Establishing Further Proceedings with Respect to the Meaning of the Governing Legal Standard in both cases. On February 23, Staff and Public Counsel filed direct testimony. On February 26,

AmerenUE filed a statement objecting to Staff's and Public Counsel's filing of direct testimony without an order.

The Commission finds that AmerenUE's Request for an Order Establishing Further Proceedings With Respect to the Meaning of the Governing Legal Standard is not directly related to the rate reduction issue provided for in Case No. EM-96-149, and this pleading will be ruled on in Case No. EO-96-14. Therefore, the Commission will deny the identical request filed in this case.

The Commission finds that it is not necessary for the parties to submit any evidence regarding an interim rate design in this case as the Commission will likely issue a decision in Case No. EO-96-15 regarding AmerenUE's class cost of service and rate design concurrently with the decision in this case. Therefore, evidence relating to class cost of service and interim rate design will not be admitted into evidence in this case.

As it is in the public interest to rule on these issues as expeditiously as possible, the Commission will establish an expedited procedural schedule. Since the dates for prehearing conference and hearing are no longer available, the Commission will modify the proposed procedural schedule. The following conditions shall be applied to the procedural schedule:

(A) The Commission will require the prefiling of testimony as defined in 4 CSR 240-2.130. All parties shall comply with this rule, including the requirement that testimony be filed on line-numbered pages. The practice of prefiling testimony is designed to give

parties notice of the claims, contentions and evidence in issue and to avoid unnecessary objections and delays caused by allegations of unfair surprise at the hearing.

(B) The parties shall file a hearing memorandum setting out the issues to be heard and the witnesses to appear on each day of the hearing, definitions of essential terms, each party's position on the disputed issues, and the order of cross-examination. The hearing memorandum will set forth the issues that are to be heard and decided by the Commission. Any issue not contained in the hearing memorandum will be viewed as uncontested and not requiring resolution by the Commission. Staff will be responsible for preparing and filing the hearing memorandum.

(C) The Commission emphasizes the importance of the deadline for filing the hearing memorandum. Commission Staff will be responsible for preparing and filing the hearing memorandum, and, unless the Commission orders otherwise, the hearing memorandum shall be filed on or before the date set. Each party is required to provide Staff with its position on each unresolved issue at least two business days prior to the filing deadline for the hearing memorandum. Each party shall either present their signature element (a signed page) or shall be available to sign the final draft at the offices of the General Counsel prior to the filing deadline. A hearing memorandum which is not signed is considered noncompliant as to the party whose signature is missing and any party who fails or refuses to sign the final copy of the hearing memorandum is hereby ordered to file its own hearing

memorandum, which follows the same numbering and topic outline, by the hearing memorandum filing date.

(D) The Commission's general policy provides for the filing of the transcript within two weeks after the hearing. If any party seeks to expedite the filing of the transcript, such request shall be tendered in writing to the regulatory law judge at least five days prior to the date of the hearing.

(E) All pleadings, briefs and amendments shall be filed in accordance with 4 CSR 240-2.080. The briefs to be submitted by the parties shall follow the same format established in the hearing memorandum. Initial briefs must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.

(F) All parties are required to bring an adequate number of copies of exhibits which they intend to offer into evidence at the hearing. If an exhibit has been prefiled, only three copies of the exhibit are necessary for the court reporter. If an exhibit has not been prefiled, the party offering it should bring, in addition to the three copies for the court reporter, copies for the five Commissioners, the regulatory law judge and opposing counsel.

Because the Rate Reduction credit is to be made under the same procedures as the Sharing Credits in Case Nos. EO-96-14, it is appropriate to hear Case No. EO-96-14 and Case No. EM-96-149 concurrently. No request to consolidate these cases has been filed.

The parties should not file identical pleadings in both Case No. EO-96-14 and Case No. EM-96-149 as if these cases were consolidated. The parties should file pleadings only in the case to which they pertain. Pleadings relating to the Experimental Alternative Regulation Plan should be filed in Case No. EO-96-14. Pleadings relating to the issue of weather normalization should be filed in Case No. EM-96-149. Pleadings regarding procedural issues that relate to both cases should be filed in both cases.

IT IS THEREFORE ORDERED:

1. That the following procedural schedule is adopted:

Staff and Public Counsel direct testimony and schedules accepted	-	February 23, 1999
Company filing of rebuttal testimony	-	April 2, 1999
Staff and Public Counsel filing Of surrebuttal testimony	-	April 19, 1999
Prehearing Conference	-	April 20-21, 1999 (begin first day at 10:00 a.m.)
Hearing Memorandum	-	May 11, 1999
Evidentiary Hearing	-	May 17-19, 1999 (begin first day at 9:00 a.m.)

2. That the evidentiary hearing will be held in the Commission's hearing room, 520A, on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. The hearing will commence at 9:00 a.m. on May 17, 1999 and at 8:30 a.m. every day thereafter. Any persons with special needs as addressed by the Americans with Disabilities Act should contact the

Missouri Public Service Commission at least ten (10) days prior to the prehearing conference or evidentiary hearing at one of the following numbers: Consumer Services Hotline - 1-800-392-4211, or TDD Hotline - 1-800-829-7541.

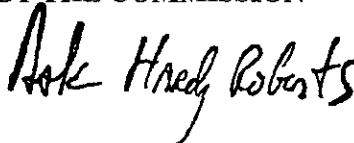
3. That Staff's Motion for Leave to Late File Initial Report for Third Year Sharing Credit Calculation and Initial Report Respecting Weather Normalization of Earnings Shared with Ratepayers filed on November 25, 1998 is granted.

4. That Union Electric Company's Reply to Staff and Public Counsel's Response to Request for Commission Guidance and Request for An Order Establishing Further Proceedings with Respect to the Meaning of the Governing Legal Standard filed on February 5, 1999 is denied.

5. That Case No. EO-96-14 and Case No. EM-96-149 shall be heard concurrently.

6. That this order shall become effective on March 30, 1999.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Murray, Schemenauer
and Drainer, CC., concur
Crumpton, C., absent

Register, Regulatory Law Judge

Atty/Sec'y:

Register/Boyer

Date Circulated

3-9

CASE NO.

EM-96-149

pp 10, 4, 5, 6

Lumpke, Chair

Albert

Crumpton, Commissioner

pp 4, 5, 6, 9

Murray, Commissioner

NR

Schmenauer, Commissioner

NR

Drauner, Vice-Chair

*suggested by
change to order
Amended Order*

Agenda Date

3-11

Action taken:

4-OAA

Must Vote Not Later Than

NR

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

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson
City,

Missouri, this 18TH day of MARCH, 1999.

Dale Hardy Roberts

**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

