

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

In the Matter of Union Electric            )  
Company, d/b/a Ameren Missouri's        )  
Tariff to Increase Its Revenues for        )  
Electric Service.                            )

**Case No. ER-2014-0258**  
Tariff No. YE-2015-0003

**STAFF'S RESPONSE TO OPC'S RATE CASE EXPENSE MOTION**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Response to OPC's Request for Order on Rate Case Expense and Motion to Expedite Treatment*, states as follows:

1. The Office of the Public Counsel ("OPC") filed its *Request for Order on Rate Case Expense and Motion to Expedite Treatment* on April 28, 2015, requesting that the Commission direct "the signatory parties" to file by 1:00 p.m. on April 28, 2015, "the evidence necessary to support the inclusion of any rate case expense in the revenue requirement in this case."

2. OPC relies upon the language of a nonunanimous stipulation and agreement, entitled *Amended Nonunanimous Stipulation and Agreement Regarding Certain Revenue Requirement Issues*, which ripened into a unanimous stipulation and agreement when no party timely objected. The Commission approved the *Stipulation and Agreement* on March 19, 2015, and ordered the signatory parties to comply with its terms. As to rate case expense, the *Stipulation and Agreement* stated:

The parties agree that the revenue requirement in this case shall include the Company's prudently-incurred rate case expenses for this case, calculated in accordance with Staff Witness Sarah Sharpe's position, as reflected in her direct testimony.

The testimony referred to by the *Stipulation and Agreement*, was set out by OPC as

follows:

Staff has determined that an appropriate total amount of rate case expense to be included with Staff's direct filing to be \$1,1104,706<sup>1</sup> [sic] normalized over 18 months, which results in an annual amount of \$796,530. Staff proposes this adjustment with the intention of updating Ameren's total rate case expense throughout the remainder of this case's proceedings through and up to two weeks after the filing of reply/true-up briefs in this case.

Elsewhere in her testimony, Staff witness Sarah Sharpe requested that Ameren Missouri provide updated rate case expense data to her by April 24, 2015.

3. The *Stipulation and Agreement* contemplates that Ameren Missouri will provide updated rate case expense information to the Staff; there is no stated requirement that it will be filed in the case or provided to OPC. In fact, Ameren Missouri has provided updated rate case expense data to Staff as agreed and also provided it to OPC.<sup>2</sup> It appears that OPC's *Motion*, therefore, in this respect misstates the facts and violates the *Stipulation and Agreement* and the Commission's *Order* that the parties comply with that *Stipulation and Agreement*.

4. It further appears that the parties to the *Stipulation and Agreement* therein agreed that rate case expense includes *at least* the figure cited by Sarah Sharpe in her direct testimony, \$1,104,706, to be included in rates at an annual figure of \$796,530. Because the parties agreed on that figure, no further evidence is necessary. ***White v. Director of Revenue***, 321 S.W.3d 298, 308 (Mo. banc 2010). It appears that OPC's *Motion*, therefore, in this respect, as well, violates the *Stipulation and Agreement* and the Commission's *Order* that the parties comply with that *Stipulation and Agreement*.

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<sup>1</sup> In *Staff's Revenue Requirement Report*, the figure is actually \$1,104,706. *RR Report*, p. 105.

<sup>2</sup> Personal communication from Jim Lowery and Wendy Tatro, April 28, 2015; confirmed by John Cassidy.

5. OPC suggests that it may wish, at this eleventh hour, to mount a prudence challenge to Ameren Missouri's rate case expense. As is well-known, the Company's expenses are presumed to be prudently incurred unless and until a challenging party adduces evidence constituting "a showing of inefficiency or improvidence." **Office of Public Counsel v. Missouri Public Service Com'n**, 409 S.W.3d 371, 376 (Mo. banc 2013). OPC's opportunity to make such a showing was in the recently-concluded evidentiary hearing. However, instead of presenting any such challenge, OPC entered into the *Stipulation and Agreement* referred to above and *waived its opportunity*. It appears that OPC's *Motion*, therefore, in this respect, too, violates the *Stipulation and Agreement* and the Commission's *Order* that the parties comply with that *Stipulation and Agreement*.

6. Even in its last-minute *Motion*, OPC does not point to any evidence or offer any proof suggesting imprudence. The burden is on the challenger to make a showing of imprudence. **Office of Public Counsel, supra**. OPC has not even attempted to carry that burden.

7. Based on the updated rate case expense information provided by Ameren Missouri, it is Staff 's position that Ameren Missouri's prudent and properly recoverable rate case expense amounts to \$2,391,209, which Staff proposes to include in revenue requirement on an annualized and normalized basis of \$1,466,975.

**WHEREFORE**, because OPC's *Motion* is without merit and violates the *Stipulation and Agreement* and the Commission's *Order* that the parties comply with that *Stipulation and Agreement*, Staff prays that the Commission will deny OPC's *Motion*; and grant such other and further relief as is just in the circumstances.

Respectfully submitted,

s/ Kevin A. Thompson  
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**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this **28<sup>th</sup> day of April, 2015**, to the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

s/ Kevin A. Thompson