

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

In the Matter of Union Electric Company	)	
d/b/a AmerenUE for Authority to File	)	
Tariffs Increasing Rates for Electric	)	Case No. ER-2007-0002
Service Provided to Customers in the	)	
Company's Missouri Service Area.	)	

**REPLY TO STAFF RESPONSE TO AMERENUE'S MOTION TO ADOPT  
PROCEDURES FOR IMPLEMENTING AMERENUE'S REQUESTED FUEL  
ADJUSTMENT CLAUSE**

COMES NOW Union Electric Company d/b/a AmerenUE ("AmerenUE" or ("Company")), pursuant to 4 CSR 240-2.080(15), and hereby files this Reply to Staff's above-referenced Response relating to AmerenUE's request for a fuel adjustment clause ("FAC") pursuant to Senate Bill 179, Section 386.266, RSMo. (2005 Cum. Supp.) ("SB 179"). For its Reply, AmerenUE states as follows:

1. On June 15, 2006, the Commission proposed rules relating to the implementation of the FAC<sup>1</sup> provisions of SB 179. Less than 30 days later, the Company filed the above-captioned general rate increase case. Concurrently with filing its request for a general rate increase on July 7, 2006, the Company, in the direct testimony of Company witness Warner L. Baxter, requested the ability to implement an FAC, subject to the promulgation of satisfactory FAC rules. At that same time, in the Company's filing letter and via the subject Motion to which Staff has responded, the Company advised parties and potential parties to the rate case that it was requesting an FAC in this rate case.

2. As of the time of the Company's rate case filing, and indeed today, there do not exist any rules that govern the application process for seeking an FAC (*see* Section 386.266.12). Consequently, there are no rules in place that prescribe what a utility should or should not file at

---

<sup>1</sup> The rules also related to the interim energy charge or "IEC" provisions of SB 179.

the inception of a rate case or at any other point in time when requesting a FAC. As the Company's Motion points out, SB 179 expressly allows such a request to be made, however, even in the absence of such rules (*see* Section 386.266.9), although the Commission could not approve the requested FAC as part of the rate case Report and Order unless, at the time the Report and Order was issued, rules have been adopted (*see* Section 386.266.12).

3. This procedure, created by SB 179, where rules must exist before the Commission can *approve* an FAC but where the FAC can be *requested* before those rules exist, is somewhat unusual. To address the somewhat unusual requirement in SB 179, Staff developed<sup>2</sup> proposed "transition provisions" in the rules that the Commission proposed on June 15, 2006. As was pointed out by some Commissioners during Agenda discussions leading up to the Notice of Proposed Rulemaking ultimately issued on June 15, 2006, the inclusion of transition provisions in the proposed rules does not equate to the issuance of binding rules or to an order of the Commission binding on any party affected by an FAC request. During those discussions it was suggested that a solution to any problem that might be presented by including transition provisions in proposed, but not adopted rules, could be for the Commission to simply adopt by order the procedures that would apply to FAC requests made in a rate case. Consequently, the Company has filed the subject Motion seeking just such an order in this case.

4. As a practical matter, the Company is in effect asking the Commission to "cut and paste" the provisions in proposed rule 4 CSR 240-20.090(16) into a procedural order to be entered in the present rate case. By doing so, the Commission, by order, will have adopted for this rate case transition procedures that address the somewhat unusual circumstance created by the unique provisions of SB 179 discussed above. The Company's request in this regard is consistent with the Commissioners' Agenda discussions referenced above.

---

<sup>2</sup> With input from participants in the SB 179 workshops.

5. Based upon the belief that this was a reasonable approach to requesting an FAC (there indeed was and is not other guidance in SB 179 or from the Commission on how such a request is to be made), the Company filed its case, made its FAC request, and filed the subject Motion.

6. The Company's filing fully complied with subsection (16) of the proposed FAC rules. Subsection (16) provides as follows: "If the electric utility files a general rate proceeding thirty (30) days or more after the commission issues a notice of proposed rulemaking respecting initial RAM rules, the provisions of this section shall apply ...." The Company filed its rate case less than 30 days after the notice of proposed rulemaking was issued. Consequently, the requirements of subsection (16) (even if they had been adopted) would not have applied to the Company's filing. Moreover, subsection (16) addresses the circumstances of the Company's rate case filing in that also provides that "[i]f the electric utility . . . files a general rate proceeding less than thirty (30) days after the commission issues a notice of proposed rulemaking respecting initial RAM rules, the electric utility shall request a RAM as part of its general rate proceeding filing." The Company requested a RAM (here, an FAC) as part of its general rate proceeding filing in testimony, via the subject Motion, and in its filing letter submitted as part of the minimum filing requirements prescribed by Commission rules.

7. Under these circumstances, subsection (16) would require the Company to comply with the intricacies of 4 CSR 240-3.161 and the rest of 4 CSR 240-20.090 according to the timing laid out in subsection (C) of 4 CSR 240-20.090(16). This would mean that the Company would, within 15 days after final rules were actually adopted (which would be the first time anyone would actually know what must be filed and when), make all of the filings actually required by the rules with respect to its FAC request. When exactly that will be is unclear. It

could be as early as mid-September of this year insofar as all comments and hearings respecting the FAC rules will be complete by September 7, 2006. It must be no later than November 13, 2007 because of the requirement in SB 179 that rules be promulgated within 150 days after they are proposed. The Company would expect, based upon the aggressive schedule set in this rulemaking, for rules to be finalized well in advance of that 150 day deadline.

8. The Company's reading of Staff's Response suggests that Staff's concern with the Company's Motion is that Staff does not want to be put in a position of receiving sufficient information and details about the Company's FAC request at a point in time that creates prejudice for Staff in preparing its direct case. Staff apparently believes that a detailed filing in November would provide Staff and other parties information on the Company's FAC request too late in the proceedings of this case.

9. As Staff notes in its Response, the Company has already advised Staff that the Company does not seek to adhere to the time frames the Company believes the proposed transition rules would allow, that is, to filing details on its FAC request within 15 days after final rules are adopted. The Company does not, and never did, seek to prejudice Staff or any other party with respect to the timely preparation of their direct cases. The Company was and is simply continuing to work to finalize the appropriate rules and to utilize SB 179 in its rate case, as was contemplated by the statute.

10. To address the concern that Staff has raised, the Company proposes to file FAC tariff sheets, supporting direct testimony, and the other 19 items of information contemplated by proposed rule 4 CSR 240-3.161(2)<sup>3</sup> on or before September 30, 2006. September 30, 2006 is the

---

<sup>3</sup> At present, the Company would intend to file information on the 19 items contained in 3.161(2). If however for some reason the Company does not believe it can or should file all such items the Company would explain its reasons at the time of its September 30 filing and all parties to the rate case would have the opportunity to comment thereon.

same date the Company indicated in its filing letter as well as in the direct testimony of Company witness Gary S. Weiss that it intends to update its case using actual data from April to June, 2006 to replace the forecasted data used for that three month period at the time of its filing. September 30 is also approximately three weeks after all comments and public testimony will have been submitted on the proposed FAC rules and could be a date after final rules are actually adopted by the Commission. It is also a date that would provide all parties a minimum of 60 and likely more days to consider the information provided, conduct discovery if necessary, and otherwise prepare their direct filings respecting the FAC request. A filing on that date would then, as the Company understands it, trigger the application of subsections (C) through (G) of subsection (16) (which would have taken effect by Commission order in this case, as requested in the Company's Motion), providing a procedural mechanism for all parties to address the Company's FAC request, including its detailed September 30, 2006 filing.

11. It is of course possible that the 19 items in 3.161(2) could be changed by the Commission in the final rules, either before or after September 30, 2006. If changes occur before September 30 the Company would endeavor to conform its filing to the changes to the extent practicable. If, however, time did not allow the Company to do so by that date, the Company would intend to ask the Commission for a reasonable extension of time with respect to items that were changed or added, or would ask for a waiver of the need to conform its September 30 filing regarding items that were changed or added before it makes its September 30, 2006 filing.

12. In summary, the Company is willing, and hereby proposes, to vary from what it believes the proposed transition rules allow and to make a detailed filing respecting its FAC request by September 30, 2006, well in advance of the expected date of any required substantive

filings by any party in this case. Consequently, to the extent necessary, the Company requests that its Motion to Adopt Procedures For Implementing AmerenUE's Requested Fuel Adjustment Clause be considered amended and that its prayer in said Motion now read as follows:

WHEREFORE, AmerenUE requests that the Commission enter its order adopting and applying for purposes of this case the provisions which appear as subsection (16) of proposed rule 4 CSR 240-20.090 with respect to the Company's request for a FAC, granting a waiver from the final transition provisions of the FAC rules that are finally promulgated, if any, to the extent, if any, they vary from the terms of the requested order, ordering that the parties comply with the provisions of proposed rule 4 CSR 240-20.090(16), as adopted by the Commission's order requested herein; provided, however, that the Company prays that the Commission's order set a deadline of September 30, 2006 by which the Company shall file FAC tariff sheets, supporting direct testimony, and the other 19 items of information contemplated by proposed rule 4 CSR 240-3.161(2) or a request for a waiver of any of those items for which the Company believes a waiver is appropriate.

Dated: August 8, 2006

Steven R. Sullivan, #33102  
Sr. Vice President, General  
Counsel and Secretary  
Thomas M. Byrne, # 33340  
Managing Assoc. General Counsel  
Ameren Services Company  
P.O. Box 66149  
St. Louis, MO 63166-6149  
(314) 554-2098  
(314) 554-2514 (phone)  
(314) 554-4014 (fax)  
[ssullivan@ameren.com](mailto:ssullivan@ameren.com)  
[tbyrne@ameren.com](mailto:tbyrne@ameren.com)

**SMITH LEWIS, LLP**

/s/James B. Lowery  
James B. Lowery, #40503  
Suite 200, City Centre Building  
111 South Ninth Street  
P.O. Box 918  
Columbia, MO 65205-0918  
Phone (573) 443-3141  
Facsimile (573) 442-6686  
[lowery@smithlewis.com](mailto:lowery@smithlewis.com)

**Attorneys for Union Electric Company  
d/b/a AmerenUE**

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via e-mail, to the following parties on the 8th day of August, 2006.

Office of the General Counsel  
Missouri Public Service Commission  
Governor Office Building  
200 Madison Street, Suite 100  
Jefferson City, MO 65101  
[gencounsel@psc.mo.gov](mailto:gencounsel@psc.mo.gov)

Office of the Public Counsel  
Governor Office Building  
200 Madison Street, Suite 650  
Jefferson City, MO 65101  
[opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov)

Joseph P. Bindbeutel  
Missouri Department of Natural Resources  
8<sup>th</sup> Floor, Broadway Building  
P.O. Box 899  
Jefferson City, MO 65102  
[joe.bindbeutel@ago.mo.gov](mailto:joe.bindbeutel@ago.mo.gov)

Lisa C. Langeneckert  
Missouri Energy Group  
911 Washington Ave., 7<sup>th</sup> Floor  
St. Louis, MO 63101  
[llangeneckert@stolarlaw.com](mailto:llangeneckert@stolarlaw.com)

Stuart Conrad  
Noranda Aluminum, Inc.  
3100 Broadway, Suite 1209  
Kansas City, MO 64111  
[stucon@fcplaw.com](mailto:stucon@fcplaw.com)

Douglas Micheel  
State of Missouri  
P.O. Box 899  
Jefferson City, MO 65102  
[douglas.micheel@ago.mo.gov](mailto:douglas.micheel@ago.mo.gov)

John Coffman  
AARP  
871 Tuxedo Blvd.  
St. Louis, MO 63119  
[john@johncoffman.net](mailto:john@johncoffman.net)

Paul A. Boudreau  
Aquila Networks  
312 East Capitol Ave.  
P.O. Box 456  
Jefferson City, MO 65102  
[PaulB@brydonlaw.com](mailto:PaulB@brydonlaw.com)

John B. Coffman  
Consumers Council of Missouri  
871 Tuxedo Blvd.  
St. Louis, MO 63119  
[john@johncoffman.net](mailto:john@johncoffman.net)

Michael C. Pendergast  
Laclede Gas Company  
720 Olive Street, Suite 1520  
St. Louis, MO 63101  
[mpendergast@lacledegas.com](mailto:mpendergast@lacledegas.com)

Rich Carver  
Missouri Association for Social Welfare  
3225-A Emerald Lane  
P.O. Box 6670  
Jefferson City, MO 65102-6670  
[carver@gptlaw.net](mailto:carver@gptlaw.net)

Diana M. Vuylsteke  
Missouri Industrial Consumers  
211 N. Broadway, Suite 3600  
St. Louis, MO 65102  
[dmvuylsteke@bryancave.com](mailto:dmvuylsteke@bryancave.com)

H. Lyle  
MOKAN, CCAC Champagne  
906 Olive, Suite 1110  
St. Louis, MO 63101  
[lyell@champagneLaw.com](mailto:lyell@champagneLaw.com)

/s/James B. Lowery  
James B. Lowery