

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

In the Matter of the Application of Union)	
Electric Company, d/b/a Ameren Missouri for)	Case No. EU-2012-0027
The Issuance of an Accounting Authority Order)	
Relating to its Electrical Operations.)	

**POSITION STATEMENT OF UNION ELECTRIC COMPANY
d/b/a AMEREN MISSOURI**

As required by the Commission’s October 28, 2011, *Order Adopting Procedural Schedule and Terms*, as amended by the subsequent orders extending time issued on April 17, 2012 and April 20, 2012, Union Electric Company d/b/a Ameren Missouri (“Ameren Missouri” or “Company”) hereby submits its position statement on each of the issues that the parties to this case jointly submitted on April 18, 2012.

Issue 1: Do the amounts at issue in this case constitute “fixed costs” or “lost revenues/profits”?

The attempt by some parties in this case to raise as a substantive issue the question of whether the amounts Ameren Missouri seeks to defer in this case are “fixed costs” or are, instead “lost revenues/profits” is a false controversy based on a distinction without a difference. In reality, the amounts the Company seeks to defer are both fixed costs and revenues: because Ameren Missouri was unable to bill and collect rate revenues from Noranda Aluminum Company (“Noranda”) during an extended outage that resulted from the January 2009 ice storm that struck southeastern Missouri, the Company also failed to recover fixed costs that had been allocated to Noranda’s rate class in Case No. ER-2008-0318.

As a direct result of damage it suffered due to a service outage caused by the January 2009 ice storm, Noranda was forced to curtail operations for a period of approximately fourteen months immediately following the storm. Prior to the ice storm, the Company collected approximately \$139 million in annual rate revenues from Noranda. But while its operations were curtailed Noranda’s usage dropped drastically, which caused a corresponding drop in Ameren Missouri’s revenues.

As part of the rate design the Commission adopted in Case No. ER-2008-0318, the Large Transmission Rate class was allocated responsibility for a portion of Ameren Missouri's cost of service, which includes fixed costs that do not vary based on the amount of electricity sold. The Large Transmission Service class has only one customer, Noranda, so when Noranda's operations were significantly reduced for fourteen months Ameren Missouri lost both the rate revenue and recovery of the fixed costs that had been allocated to that rate class. For the period covered by Ameren Missouri's application in this case, the loss of the Noranda load meant that the Company was unable to collect approximately \$36 million in fixed costs that had been allocated to the Large Transmission Service class.

Thus, the amounts that Ameren Missouri seeks to defer through an AAO are both the rate revenues that it was unable to collect during the period Noranda suspended its operations and the fixed costs that the Company expected to recover through those rate revenues

Issue 2: Should the Commission issue an Accounting Authority Order ("AAO") authorizing Ameren Missouri to defer and record to the Uniform System of Accounts, Account 182.3, Other Regulatory Assets, the "fixed costs"/"lost revenues/profits" which Ameren Missouri was unable to recover from Noranda due to the effects of the January 2009 ice storm?

The Commission should authorize Ameren Missouri to defer and record to Uniform System of Accounts ("USOA") Account 182.3, Other Regulatory Assets, the fixed costs the Company was unable to collect from Noranda during the fourteen-month period when its operations were significantly reduced as a result of the January 2009 ice storm. The testimony and other evidence that Ameren Missouri will present in this case will clearly establish that the Company's request for an AAO satisfies all of the requirements prescribed in the USOA for deferrals to Account 182.3. The January 2009 ice storm was an "extraordinary event," as defined in USOA General Instruction No. 7. The fixed costs that Ameren Missouri was unable to collect and that it seeks to defer are items that affect profit and loss and net income, as required by the USOA. And amount of fixed costs at issue in this case – approximately \$36 million – is more than five percent of the Company's 2009 net income and, therefore, qualifies as "material" under General Instruction No. 7.

Issue 3: Should Ameren Missouri be permitted to amortize these “fixed costs”/“lost revenues or profits” over a reasonable period commencing with the effective date of the rates approved in Ameren Missouri’s pending rate case (Case No. ER-2012-0166) or over a period commencing close in time to the January 2009 ice storm?

As the Commission observed in its final order in Case No. EU-2011-0387, and as the majority of the parties to this case have recognized in their pre-filed testimony, the purpose of an AAO is to protect a utility from earnings shortfalls caused by extraordinary events that occur between general rate cases. Given that purpose, the Company will be protected from an earnings shortfall, which was caused by the loss of the Noranda load following the January 2009 ice storm, only if the Company is allowed to commence the amortization of any deferred amounts on the effective date of new rates in Ameren Missouri’s pending rate case, Case No. ER-2012-0166. That rate case will be the first opportunity for the Company to seek, and for the Commission to authorize, rates designed to recoup the fixed costs it was unable to collect from Noranda. In contrast, requiring Ameren Missouri to commence amortization at an earlier date, but without corresponding authority to collect through rates the amounts being amortized, will at best mitigate, but not protect against, a shortfall in the Company’s earnings.

Issue 4: What is the correct quantification of the “fixed costs”/ “lost revenues/profits” which Ameren Missouri was unable to recover from Noranda due to the effects on Noranda’s load of the January 2009 ice storm?

The basis for the correct and accurate quantification of the fixed costs that Ameren Missouri was unable to collect because of the loss of rate revenues from Noranda following the January 2009 ice storm is explained in the surrebuttal testimony of the Company’s witness Steven M. Wills. Based on the methodology described in Mr. Wills’ testimony, the amount that Ameren Missouri seeks to defer in this case is \$35,775,629.

Issue 5: Would the recovery through a Commission Order in a subsequent rate case of any amounts deferred pursuant to the AAO proposed by Ameren Missouri in this proceeding constitute unlawful retroactive ratemaking?

The question posed by this issue – whether collection through subsequently authorized rates of the amounts Ameren Missouri seeks to defer in this case constitutes unlawful retroactive ratemaking – is not a question that the Commission can or should decide in this case. This is true for several reasons.

First, the only issue that is presented for decision in this case is whether Ameren Missouri should be authorized to defer fixed costs it was unable to recover from Noranda as a result of the January 2009 ice storm. All parties agree that even if the Commission grants the Company's request for an AAO that decision will not change Ameren Missouri's current rates in any way.

Second, any decision regarding Ameren Missouri's ability to collect through rates any or all of any amount the Company is authorized to collect in this case will be the subject of a future rate case. That case is the proper forum for any party who believes that authorizing rates that include fixed costs lost as a result of the January 2009 ice storm constitutes unlawful retroactive ratemaking to raise that issue. Prior to that time the issue is not ripe, and any ruling by the Commission on that issue at this time would constitute an unlawful advisory opinion.

Finally, it is a settled principle of Missouri law that granting an AAO, which allows a utility to defer costs incurred or revenues lost due to an extraordinary, past event for possible recovery in future rates, does not constitute retroactive ratemaking. The Commission's final order in Case No. EU-2011-0387 both recognizes and recites this well-established principle, and even cites as support the most recent in an unbroken line of decisions of the Missouri Court of Appeals affirming and reaffirming that principle. Consequently, the lawfulness of what Ameren Missouri is asking the Commission to do in this case is beyond question.

Respectfully submitted:

/s/ Thomas M. Byrne

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 20th day of April, 2012, to all parties on the Commission's service list in this case.

/s/ Thomas M. Byrne