

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

In the Matter of the Consideration of Adoption)	
of the PURPA Section 111(d)(16) Integrated)	
Resource Planning Standard as Required by)	File No. EW-2009-0290
Section 532 of the Energy Independence and)	
Security Act of 2007.)	
)	
)	
In the Matter of the Consideration of Adoption)	
of the PURPA Section 111(d)(17) Rate Design)	
Modifications to Promote Energy Efficiency)	File No. EW-2009-0291
Investments Standard as Required by Section)	
532 of the Energy Independence and Security)	
Act of 2007.)	
)	
)	
In the Matter of the Consideration of Adoption)	
of the PURPA Section 111(d)(18), Smart Grid)	
Investments Standard, and PURPA Section)	File No. EW-2009-0292
111(d)(19), Smart Grid Information Standard)	
as Required by Section 1307 of the Energy)	
Independence and Security Act of 2007.)	

**UNION ELECTRIC COMPANY d/b/a AMERENUE'S
REPLY TO THE STAFF'S SEPTEMBER 22, 2009 RESPONSE**

COMES NOW Union Electric Company d/b/a AmerenUE (Company or AmerenUE), by and through counsel, and for its *Reply to the Staff's September 22, 2009 Response*, states as follows:

1. On May 6, 2009, the Commission issued its *Order Consolidating Workshops, Consolidating Case and Correcting File Captioning*. That Order also required the Commission Staff to file, no later than July 31, 2009, a report describing the progress of the workshops and a recommendation as to whether any of the PURPA files should be addressed in workshop settings

separate from the Integrated Resource Planning Rules (IRP) Workshops, which at that time had been scheduled to conclude in late July or early August.

2. On July 30, 2009, the Staff requested an extension of time to September 17, 2009, because the IRP workshops had, at that time, been extended through September 14-15, 2009. No participant, including the Company, opposed the Staff's request. By Order dated August 3, 2009, the Commission granted the Staff's Request. The Staff thereafter filed its report on September 22, 2009.¹

3. On September 24, 2009, the Commission granted the Staff's request to late-file its report, and ordered that any responses to the Staff's report be filed by October 5, 2009.

4. On October 2, 2009, the Company requested an extension of time to reply to the Staff's September 22, 2009 response, pending completion of additional integrated resource planning workshops that were to occur on October 19 and 20, 2009. The Commission granted the Company's extension request on September 24, 2009.

Summary of the Participants' Positions

5. Since the Staff first filed its views addressing whether prior state action had occurred respecting the four PURPA standards at issue, and the Staff's views of what consideration should be given with regard to those standards for which there has been no state action, four other parties – AmerenUE, the Missouri Department of Natural Resources (DNR), the Missouri Industrial Energy Consumers (MIEC), and Kansas City Power & Light Company (KCP&L) – have responded to the Staff's positions. The Staff has essentially re-argued its points in its most recent two filings (one made on May 6, 2009, and most recently in the Staff's September 22, 2009 response).

¹ The Staff report was filed five days late, and it was accompanied by a request for leave to late-file the same.

6. Given the passage of time, and the number of filings that have been made, the Company suggests that it is helpful to review the various participants' apparent positions as evidenced by earlier filings in these files, which are summarized in the table below:

Has There Been Prior State Action?:

Participant	Section 111(d)(16) (IRP Planning)	Section 111(d)(17) (Rate Design- En. Efficiency)	Section 111(d)(18) (Smart Grid Investments)	Section 111(d)(19) (Smart Grid Information)
Staff	Yes	Yes	No	No
AmerenUE	No	No	No	No
MIEC	?	No	No	No
KCP&L	No	No	No	No
DNR	No	No	No	No

If No, How Should the Standard Be Addressed?:

Participant	Section 111(d)(16) (IRP Planning)	Section 111(d)(17) (Rate Design- En. Efficiency)	Section 111(d)(18) (Smart Grid Investments)	Section 111(d)(19) (Smart Grid Information)
Staff	n/a	n/a	IRP Rule Rewrite	IRP Rule Rewrite
AmerenUE	IRP Rule Rewrite	IRP Rule Rewrite ²	Separate Smart Grid Docket	Separate Smart Grid Docket
MIEC	One PURPA Docket	One PURPA Docket	One PURPA Docket	One PURPA Docket
KCP&L	Separate Energy Efficiency Docket	Separate Energy Efficiency Docket	Separate Smart Grid Docket	Separate Smart Grid Docket
DNR	IRP Rule Rewrite	Separate Energy Efficiency Docket	Unclear –	Separate Smart Grid Docket

² As addressed below, in view of the adoption of SB. 376 (the Missouri Energy Efficiency Investment Act), AmerenUE now agrees with KCP&L and DNR; that is, this PURPA standard should be addressed in a separate docket dedicated to energy efficiency issues.

7. As the above-tables demonstrate, the Staff is the only participant that argues that the prior state action exemption applies to any of these four standards.³ Moreover, with one exception (DNR's position on Standard (18)), all non-Staff participants agree the standards relating to smart grids should be addressed in a docket separate from the IRP rule rewrite.

8. As noted in footnote 2, *supra*, AmerenUE now agrees with DNR and KCP&L respecting the proper handling of Standard (17), dealing with energy efficiency; that is, it should be handled in a separate energy efficiency docket. That leaves AmerenUE in agreement with the Staff regarding one standard, the IRP planning standard, which can properly be addressed in connection with the IRP rule rewrite efforts that are underway. AmerenUE's change in its view regarding how Standard (17) should be addressed arises from the passage of SB 376, which did not become effective until August 28, 2009.

At the time AmerenUE took the position that Standard (17) could be addressed in connection with the IRP rule rewrite, SB 376 had not been adopted. Now, however, SB 376 creates numerous new requirements and options and requires rulemaking in several areas related to energy efficiency. Consequently, it makes much more sense to consider Standard (17) at the same time other energy efficiency issues arising from SB 376 (known as the Missouri Energy Efficiency Investment Act) are also considered. Based upon this one change in AmerenUE's positions, the participants in these files recommend the following, which demonstrates that with just one exception (the IRP planning standard) everyone, save the Staff, are essentially in agreement:

³ As the first table notes, MIEC's position on the IRP planning standard is not entirely clear, but we would note that MIEC's April 15, 2009 filing provides as follows: "On the question of whether there has been prior state action . . . of any of the proposed new PURPA standards, MIEC believes that any prior consideration . . . is inadequate . . . " [but then MIEC only cites to three of the standards]. This is why MIEC's position on the IRP planning standard and the prior state action exemption is unclear.

How Should the Standard Be Addressed?:

Participant	Section 111(d)(16) (IRP Planning)	Section 111(d)(17) (Rate Design- En. Efficiency)	Section 111(d)(18) (Smart Grid Investments)	Section 111(d)(19) (Smart Grid Information)
Staff	n/a	n/a	IRP Rule Rewrite	IRP Rule Rewrite
AmerenUE	IRP Rule Rewrite	Separate Energy Efficiency Docket	Separate Smart Grid Docket	Separate Smart Grid Docket
MIEC	One PURPA Docket	One PURPA Docket	One PURPA Docket	One PURPA Docket
KCP&L	Separate Energy Efficiency Docket	Separate Energy Efficiency Docket	Separate Smart Grid Docket	Separate Smart Grid Docket
DNR	IRP Rule Rewrite	Separate Energy Efficiency Docket	Unclear –	Separate Smart Grid Docket

Additional Information for the Commission’s Consideration

9. AmerenUE will not burden the record with a repeat of its analyses and arguments, which have already been outlined in prior filings in these files, in particular, in AmerenUE’s March 13, 2009 *Reply to Staff’s Response to Order Setting Date for Filing Procedural Schedules* and AmerenUE’s April 28, 2009 *Reply to the Staff’s Response to Order Establishing Deadline for Responses*. There are, however, certain arguments that have since been raised by the Staff that should be addressed.

10. The Staff has asserted that adoption of the original IRP rules 16 years ago constituted prior state action respecting Standard (16). Staff goes so far as to cite language from the Commission’s Order of Rulemaking as substantiation of its claim. Standard (16) did not exist in 1993. The passages the Staff quotes demonstrate that, at most, the 1993 rulemaking

considered whether supply and demand-side resources should be treated on an *equivalent* basis. There is no cogent evidence the Commission considered whether it should give *priority* treatment to demand-side resources vis-à-vis supply-side resources, and thus the Commission cannot have considered such a standard, which arose several years ago (1993) when the original IRP rules were developed. AmerenUE, DNR and KCP&L all participated in that 1993 rulemaking and, as noted earlier, all agree that priority treatment of demand-side resources was not considered.

11. Regarding Standard (17), the Staff also attempts to pull together isolated passages from the rulemaking order from 1993 to argue that the very specific energy efficiency standards contained in PURPA were the subject of prior state action. This contention fails. Every passage cited by the Staff deals in some fashion with “cost recovery,” and arose from contentions made in the 1993 rulemaking docket that pre-approval might be necessary to give utilities sufficient assurance of later cost recovery. There was no discussion of, nor consideration of, many of the components of Standard (17) (including those *italicized* below), which are as follows:

- (17) Rate design modifications to promote energy efficiency investments. (A) In general. The rates allowed to be charged by any electric utility shall –
 - (i) *align utility incentives* with the delivery of cost-effective energy efficiency; and
 - (ii) promote energy efficiency in investments.
- (B) Policy options. In complying with subparagraph (A), each State regulatory authority . . . shall consider –
 - (i) *removing the throughput incentive and other* regulatory and management *disincentives* to energy efficiency;
 - (ii) *providing utility incentives* for the successful management of energy efficiency programs;
 - (iii) including the impact on adoption of energy efficiency as one of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives;
 - (iv) adopting rate designs that encourage energy efficiency for each customer class;
 - (v) allowing timely recovery of energy efficiency-related costs;
 - (vi) *offering home energy audits, offering demand response programs, publicizing the financial and environmental benefits associated with making home energy efficiency improvements, and educating homeowners about all existing Federal and State*

incentives, including the availability of low-cost loans, that make energy efficiency improvements more affordable.
(Emphasis added)

This demonstrates that prior state action has not occurred regarding this standard.

WHEREFORE, the Company again urges the Commission to:

- a. Find that there has been no prior state action regarding all four PURPA standards;
- b. Order consideration of the IRP planning standard (Standard (16)) as part of the IRP rewrite efforts;
- c. Order consideration of Standard (17) in connection with a separate energy efficiency docket; and
- d. Order consideration of Standards (18) and (19) as part of a separate smart grid docket.

Dated: October 26, 2009

Respectfully submitted:
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Reply was served via e-mail on the following persons on the 26th day of October, 2009.

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