

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

In the Matter of the Application of Union )  
Electric Company d/b/a AmerenUE for an )  
Accounting Authority Order Regarding )  
Accounting for Extraordinary Costs )  
Relating to Damage from the January )  
2007 Ice Storm. )

Case No. EU-2008-0141

**STAFF'S REPLY TO AMERENUE'S RESPONSE TO STAFF'S  
RECOMMENDATION TO GRANT ACCOUNTING AUTHORITY**

COMES NOW the Staff of the Missouri Public Service Commission (Staff) and, because of the misleading nature of statements made by Union Electric Company d/b/a AmerenUE in its response to the Staff's recommendation that the Commission, with five conditions, grant AmerenUE authority to defer to Uniform System of Accounts (USOA) Account 182.3, Other Regulatory Assets, extraordinary costs AmerenUE incurred due to an ice storm that occurred on January 13, 2007 replies to that response as follows:

1. This proceeding began when AmerenUE filed with the Commission an application for an Accounting Authority Order. AmerenUE requested authority to defer to Uniform System of Accounts Account 182.3, Other Regulatory Assets, extraordinary operating and maintenance costs of \$24,708,000 AmerenUE incurred due to an ice storm that occurred on January 13, 2007.

2. In its application AmerenUE proposed to amortize the \$24,708,000 over a five-year period—\$4,941,600 per year—and commence booking that amortization on the effective date of rates set in AmerenUE's next general rate proceeding, contingent on AmerenUE filing

that rate proceeding within two years of the effective date of a Commission Order granting AmerenUE the accounting authority.

3. In response to AmerenUE's application, the Staff recommended the Commission, with five conditions, grant AmerenUE an Accounting Authority Order for the extraordinary operating and maintenance costs AmerenUE incurred due to the ice storm that occurred on January 13, 2007.

4. The five conditions the Staff recommended are:

- a. AmerenUE should be authorized to defer actual incremental operation and maintenance expenses incurred as a direct result of the January 2007 ice storm to Account 182.3. Such expenses shall be in accordance with USOA definitions of operation and maintenance expense and shall exclude any expenditures relating to plant-in-service (i.e., capital costs).
- b. Any insurance claim proceeds applicable to incremental operation and maintenance expense must be used to offset the total amount of operation and maintenance expense to be deferred.
- c. AmerenUE must begin ratably amortizing to Account 182.3, over a five-year (60-month) period commencing January 15, 2007 (two days after the ice storm), the appropriate amount of all operation and maintenance expenses directly related to the January 2007 ice storm to be deferred. The five-year amortization period concludes January 14, 2012.
- d. AmerenUE shall maintain adequate records supporting the incremental expenses deferred. Such records shall include, but not be limited to, listing of outside contractors, agreements with third parties for goods and services, controls in place to ensure all expenditures were reasonable and not utilized to take advantage of the situation, detailing food and lodging costs, labor and material costs, procedures and verification for expense versus capitalization determinations, and determination of incremental levels of such costs versus normal ongoing levels of costs. Such records shall be available for review by the Commission Staff, Office of the Public Counsel and intervenors in this case, pursuant to 4 CSR 240-2.085 and Section 386.480.
- e. The Commission does not make any findings or inferences as to whether the deferred expenses are prudent and reasonable, whether other factors contributed to the damage to the system and the resulting repair/replacement costs incurred, or whether AmerenUE would have suffered financial harm (i.e., earnings during the period were inadequate to compensate AmerenUE

for the costs incurred) absent deferral. The Commission reserves the right to consider the recovery of these costs in a future rate case, the ratemaking treatment of the deferred costs and any assertions regarding the deferred expenses made by parties in AmerenUE's next rate case.

5. In its response to the Staff's recommendation, AmerenUE agreed to all of the conditions the Staff recommended the Commission impose, except condition c.—that “AmerenUE must begin ratably amortizing to Account 182.3, over a five-year (60-month) period commencing January 15, 2007 (two days after the ice storm), the appropriate amount of all operation and maintenance expenses directly related to the January 2007 ice storm to be deferred. The five-year amortization period concludes January 14, 2012.”

6. Thus, AmerenUE's stated dispute with the Staff is limited to the date when it should begin amortizing its January 13, 2007 storm costs; however, in its response AmerenUE makes the following statements which the Staff believes are misleading and may reflect misunderstandings of AmerenUE. In paragraphs three and four of its response AmerenUE states:

3. AmerenUE agrees with and accepts conditions (a), (b), (d) and (e) as recommended by the Staff. However, the Company cannot accept the Staff's recommended condition (c) which would require the 60-month amortization of the ice storm costs to begin retroactively on January 15, 2007, more than one year ago and just two days after the ice storm ended. Such an amortization schedule would improperly and unfairly require AmerenUE's shareholders to absorb almost half of the ice storm costs, without having any opportunity at all to recover the costs through rates. This condition would effectively prevent AmerenUE from recovering a substantial portion of the storm response costs even before the Commission has a forum in which it can review the prudence of the Company's expenditures. Such a result would be unfair, unreasonable and unlawful.

4. The timing of this particular ice storm makes the Staff's proposed retroactive amortization particularly egregious. As the Commission may recall, AmerenUE had a rate case pending at the time of the ice storm, Case No. ER-2007-0002. The ice storm occurred just 12 days after the cut-off date for known and measurable changes in the rate case—January 1, 2007. As a consequence, AmerenUE was precluded from seeking recovery of the storm costs in that rate case, which lasted until June of 2007, the full suspension period permitted by law.

Even if AmerenUE had immediately filed another rate case to recover the ice storm costs (say in July, 2007), it would have been mid-2008 before rates reflecting the ice storm costs would have taken effect. By that time, under Staff's amortization schedule, approximately 30% of the storm costs would have been amortized away, never to be recovered. Moreover, in Case No. ER-2007-0002 the Commission found that AmerenUE's rates had to be increased by \$43 million per year to cover its cost of service without even considering the \$24.7 million in incremental ice storm response costs. Under these circumstances, no party can credibly argue that AmerenUE's earnings were sufficient to cover the ice storm costs during the period the Staff proposes for amortization.

7. The Staff's recommendation is not unfair, unreasonable or unlawful.

8. The Commission is not required by law to grant accounting authority orders.

AmerenUE's costs due to the ice storm are expenses, and absent an order from the Commission authorizing different treatment, generally accepted accounting principles would require them to be charged to the period in which they were incurred, i.e., 2007. As the Commission stated in a case where the grant of an accounting authority order was contested,

The deferral of costs from one period to another period for the development of a revenue requirement violates the traditional method of setting rates whereby the Commission considers all relevant expenses in a particular historical test year to determine a reasonable revenue requirement for the future. The deferral of costs distorts the expenses recognized in that test year by importing costs from a previous period. For that reason, the Commission has considered requests for AAOs on a case-by-case basis and has granted them only under limited circumstances.

*In the Matter of the Application of St. Joseph Light & Power Company for the Issuance of an Accounting Authority Order Relating to its Electrical Operations*, 9 Mo.P.S.C. 3<sup>rd</sup> 481, 485 (Report and Order effective December 24, 2000, Case No. EO-2000-845). Further, in an earlier contested case, *In the Matter of the Application of Missouri Public Service for the Issuance of an Accounting Order Relating to Its Electrical Operations* and *In the Matter of the Application of Missouri Public Service for the Issuance of an Accounting Authority Order Relating to Its*

*Purchase Power Commitments*, 1 Mo. P.S.C.3d 200 (Report and Order effective December 31, 1991, Case Nos. EO-91-358 and EO-91-360), the Commission stated:

“The deferral of costs from one period to another period for the development of a revenue requirement violates the traditional method of setting rates.”

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The Commission finds that a time limitation on deferrals is reasonable since deferrals cannot be allowed to continue indefinitely. The Commission finds that a rate case must be filed within a reasonable time after the deferral period for recovery of the deferral to be considered. For purposes of this case the Commission finds that twelve months is a reasonable period. This limitation accomplishes two goals. First, it prevents the continued accumulation of deferred costs so that total disallowance would not affect the financial integrity of the company or the Commission’s ability to make the disallowance; and secondly, it ensures the Commission a review of those costs within a reasonable time. If the costs are truly extraordinary, recovery in rates should not be delayed indefinitely. A utility should not be allowed to save deferrals to offset against excess earnings in some future period.

\* \* \* \*

. . . . It is not reasonable to defer costs to insulate shareholders from risks. If costs are such that a utility considers its return on equity unreasonably low, the proper approach is to file a rate case so that a new revenue requirement can be developed which allows the company the opportunity to earn its authorized rate of return. Deferral of costs just to support the current financial picture distorts the balancing process used by the Commission to establish just and reasonable rates.

*Missouri Public Service*, 1 Mo.P.S.C. 3<sup>rd</sup> at 205-207.

9. The commencement date of January 15, 2007 the Staff proposes for the 60-month amortization is not retroactive. It is disingenuous of AmerenUE to delay until November 5, 2007 its request for an accounting authority order for costs related to an event that occurred January 13, 2007 and then accuse the Staff of proposing a retroactive amortization. AmerenUE should have known its extraordinary costs due to the storm well before November of 2007 when it sought an accounting authority order, and the Staff is aware of no justification for AmerenUE

delaying for so long after the event before making its request. In fact, AmerenUE booked approximately \$25 million to expense in January of 2007 and then adjusted this amount throughout 2007.

10. If a five-year amortization is used, as both AmerenUE and the Staff propose, then the amount of the prudently incurred extraordinary operations and maintenance costs that would be included in expenses used for setting rates would be the annual amount; *i.e.*, if all the \$24,708,000 in costs AmerenUE asserts it incurred were prudently incurred, then the amount of the expense used for recovery of those costs in setting new rates would be one-fifth that amount, *i.e.*, the test year amount for those expenses would be \$4,941,600. If that amount were used in setting AmerenUE's rates, then until rates were later changed, AmerenUE's rates would remain designed to recover that amount annually. Because the annual amount of an amortization is generally used in setting rates as long as that amortization exists during a test year upon which new rates are based, when the amortization period commences has the potential to affect how long a company recovers amounts in rates based on the annual amount of the amortization. Thus, if rates that incorporate that expense in the test year are in effect a total of five years, it should be viewed that AmerenUE has fully recovered its extraordinary costs due to the January 13, 2007 storm. There is no requirement that rates set on a test year that includes the amortization end at any point in time; therefore, if they continue in effect in the aggregate for more than five years, it should be viewed that AmerenUE has over recovered its extraordinary costs due to the January 13, 2007 storm. This type of timing issue was recently addressed by the Commission at pages 60-61 of its *Report and Order* made effective December 31, 2006 in the case *In the Matter of the Application of Kansas City Power & Light Company for Approval to Make Certain Changes in its Charges for Electric Service to Begin the Implementation of its*

*Regulatory Plan*, Case No. ER-2006-0314, where a party argued that because the amortization period of Kansas City Power & Light Company's accounting authority order for storm costs it incurred in September 2002 would end January 31, 2007 those costs should not be considered in setting the new rates in that case. The Commission rejected that argument.

11. From the foregoing it is apparent that AmerenUE's shareholders will not absorb almost half of the ice storm costs without having any opportunity to recover them through rates. As explained in some detail above, depending on when AmerenUE has general electric rate increase or decrease cases before the amortization expires and its first general electric rate case thereafter, AmerenUE may continue to enjoy the benefit of collecting the amount of this amortization in rates until such time that rates are again re-established. In fact, after rates are established that include the amortization, depending on the amount of time that elapses before rates are re-established following the expiration of the amortization, AmerenUE may collect even more than the \$24,708,000 it requests to defer.

12. While it may have been opposed, nothing prevented AmerenUE from seeking relief from the Commission in AmerenUE's last rate case to extend the cut-off date for known and measurable changes in the rate case from January 1, 2007 to January 13, 2007. Since the request was not made, no one knows whether it would have been opposed by anyone, or granted by the Commission. In at least one case the Commission stated it was denying a request for an accounting authority order because the electric utility had an opportunity to file a rate case where the allegedly extraordinary event would be included in a test year. *In the Matter of the Application of St. Joseph Light & Power Company for the Issuance of an Accounting Authority Order Relating to its Electrical Operations*, 9 Mo.P.S.C. 3d 481 (*Report and Order* effective December 24, 2000, Case No. EO-2000-845). AmerenUE could have filed a general rate

increase case where the January 13, 2007 storm was within the test year used for setting new rates.

13. AmerenUE contends that its earnings were somehow insufficient to cover the ice storm costs during the 2007 time period that the Staff proposes to begin the amortization. However, based upon information in surveillance reports that AmerenUE supplied to both the Staff and the Office of Public Counsel, AmerenUE's Missouri jurisdictional electric return on equity was 11.09% for the twelve months ending September 30, 2007. This is well above the 10.25% return on equity the Commission established in AmerenUE's most recent general electric rate increase proceeding, Case No. ER-2007-0002. This level of return suggests AmerenUE is fairing better than the basis upon which rates were established in that case and that significant recovery of the ice storm costs is already taking place. Furthermore, AmerenUE's earnings during this time period that produced the 11.09% return on equity reflect the impact of the ice storm costs, as well as a Callaway nuclear plant refueling during April and May 2007.

14. In its response AmerenUE cites a number of Commission cases as support for its request the Commission permit it to delay the commencement of the amortization period. With the exception of the cited KCPL case, each cost was incurred due to the Commission's 2005 emergency amendment to its cold weather rule, Commission gas line safety rules, a water main replacement program and security upgrades in response to 9/11. Thus, each is readily distinguishable on its facts from the situation presented here since they were not extraordinary due to an "Act of God."

15. The only case AmerenUE cites that offers any real support to its position is the KCPL ice storm accounting authority order case (Case No. EU-2002-1048). What AmerenUE does not point out is that Kansas City Power & Light Company filed its request for accounting



authority on April 24, 2002, approximately three months after the ice storm, and began amortizing the related costs on September 1, 2002, just seven months after the storm, a much shorter time period than the possible 28 month delay AmerenUE proposes in this case. AmerenUE has alleged no circumstances here that would warrant it receiving treatment more preferential than Kansas City Power & Light Company and Aquila, Inc. received in what are the two most recent accounting authority orders issued based on costs incurred due to ice storms. Further, of great significance is that in both of those cases the amortization period, regardless of when it began, ended five years after the date of the storm.

16. The Staff disagrees with AmerenUE's position that this case does not merit a hearing. The Staff believes that a hearing would better serve the Commission in understanding and exploring the parties' respective positions in this case.

WHEREFORE, the Staff continues to recommend the Commission, with the conditions set forth above and in its memorandum, grant Union Electric Company, d/b/a AmerenUE an Accounting Authority Order that allows AmerenUE to defer to Uniform System of Accounts (USOA) Account 182.3, Other Regulatory Assets, the extraordinary costs AmerenUE incurred due to an ice storm that occurred on January 13, 2007; and, further, if the Commission elects to use an amortization period other than five years it end that amortization period no later than January 12, 2012—five years after the date of the January 13, 2007 date of the ice storm.

Respectfully submitted,

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 31<sup>st</sup> day of January 2008.

/s/ Nathan Williams