BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Tariff Filing of Union	)	
Electric Company d/b/a AmerenUE to Revise	)	Case No. EO-2009-0437
the Provisions of Rider L.	)	Tariff No. JE-2009-0804

RESPONSE

COMES NOW Union Electric Company d/b/a AmerenUE (AmerenUE or the Company) and, pursuant to 4 CSR 240-2.160, submits this *Response* and states as follows:

I. History

1. On May 14, 2009, AmerenUE filed a revised Rider L tariff.

2. On June 8, 2009, the Office of the Public Counsel (OPC) filed its *Motion to Suspend and Motion for Expedited Treatment* (*OPC's Motion*) asking that the tariff sheets for Rider L be suspended so that it could further consider AmerenUE's filing. OPC's *Motion* listed several concerns with AmerenUE's Rider L.

3. On June 10, 2009, the Staff of the Missouri Public Service Commission (Staff) filed *Staff's Motion to Suspend Operation of New Tariff Provisions for Union Electric Company's Rider L Curtailment Program, Motion for Expedited Treatment, and Response to Order* (*Staff's Motion*) in which the Staff expressed their concerns with Rider L.

4. On June 10, 2009, the Missouri Public Service Commission (Commission) suspended Rider L until July 9, 2009 and set this matter for hearing on June 26, 2009.

5. On June 12, 2009, the Commission issued an order indicating that AmerenUE had until June 18, 2009, to respond to *OPC's Motion*, if the Company so

desired. Most of the issues raised in *Staff's Motion* were duplications of issues set forth in *OPC's Motion*, so AmerenUE will address both of the motions in this *Response*.

II. Demand Response Programs

6. By way of background to this discussion, it should first be noted that there are two basic forms of demand response programs. The first type is controllable, in which the utility exercises control of when the customer curtails load. Typically, the customer pays a lower rate for electric service because the service may be interrupted. The customer is told when to interrupt by the utility and there may be financial consequences to the customer if the customer does not comply with a curtailment call by the utility. This type of a program also typically requires the customer to set an assurance power level, which becomes the maximum amount of service the customer may take during a curtailment call without incurring a penalty.

7. The second program type is price responsive. In this type of a program, the customer decides when load is reduced. A curtailment is not called by the utility. Instead, price signals are used as an incentive for the customer to reduce load. If the price offered is sufficient to induce the customer to act, i.e., reduce load, the customer will receive payment at an agreed upon price for reducing load. If the customer does not reduce load, there is no penalty assessed nor is there an impact on the rate the customer pays. Price responsive programs empower customers to choose the level of risk that best suits them.

III. Rider L Tariff Revisions

8. Rider L tariff is a price responsive demand response program. Although the Company has offered a tariff titled Rider L in the past to customers, it was what is

termed a "demand bidding" program and its incentives were tied to wholesale energy markets. Consequently, the price signal received by customers was very volatile and participation was low. The revised Rider L offers customers a price that includes a long run capacity price component in addition to the traditional market energy price component. The Company expects to offer customers the pricing signal 12 and 15 times per year, on days when load is high or system resources are constrained, with the long term goal of affecting AmerenUE's long-term capacity planning. AmerenUE expects this price signal will be much more stable when compared to the current Rider L tariff, though its timing will necessarily remain uncertain. The Company expects a more reliable price signal will encourage customers to enhance and automate their demand reduction capabilities in the coming years and will, over time, provide a cost-effective alternative to new supply-side capacity.

9. AmerenUE would like to send these pricing signals to customers beginning with the 2009 summer season, in order to gain experience on customer receptivity to a totally voluntary price responsive product. An important objective of Rider L is to determine customers' elasticity of demand. At what level of price signals will customers respond? What operational and technological innovations will customers seek to improve their ability to respond to price signals? The tariff allows for AmerenUE to send the peak price signal up to 15 times a year. Participating customers will have the option to reduce their load in response to those signals but will not face adverse financial impacts if they choose not to respond. AmerenUE believes that, as time goes on, participating customers will become comfortable with these consistent, long-term signals and become better able to plan their systems to allow them the ability to decrease load

when the price signal is received. AmerenUE will also learn what type of price signal is required to encourage the desired response from our customers. Over time, as customers become more familiar with this tariff and how AmerenUE sends out the price signal, the Company believes this customer response (reduction of load) will become something that can be predicted and modeled.

10. AmerenUE envisions Rider L as the cornerstone to a portfolio of demand response programs that ultimately builds on price feedback and automated customer load control technologies to provide meaningful, and ultimately predictable, peak demand reductions. This type of demand response program provides the basis for the Company's efforts to reduce energy consumption and to provide customers with the benefits of smart grid technology. As the next step in these efforts, the Company intends to utilize the price response model with its residential Smart Grid pilot, which the Company hopes will be operational by August 1, 2009.

IV. OPC and Staff Concerns

11. OPC and Staff have expressed concerns with Rider L. AmerenUE will attempt to address these concerns in this pleading, but may more fully develop this explanation at the hearing, if the Company does not reach agreement with Staff and OPC prior to that date.

12. OPC and Staff both point out that the value of capacity used by AmerenUE in Rider L is higher than the value set forth in its last IRP filing. This statement is true. The view of Staff and OPC misses the value of this tariff. The capacity value used in this tariff is based upon the cost of a CTG (highly discounted for risk), which may be higher than the market value of capacity. However, the value of this tariff

does not come from its capacity value. The value to participants in the Rider L tariff is that the Company will send a consistent, meaningful, long-term price signal to customers that they can rely upon year after year. In return, the Company expects participating customers to plan accordingly, i.e., make the prerequisite operational and technological innovations to respond over the long run to the price signals. Over time, that response becomes predictable and useful when modeling future demand.

13. Next, OPC and Staff point out that Rider L does not qualify as a load resource under MISO[1] Module E (Module E). AmerenUE agrees that that Rider L does not qualify as a load resource, nor is it intended to qualify as a load resource at this time. Module E contains specific provisions for Load Modifying Resources (LMR) which can be utilized to meet Resource Adequacy Requirements (RAR). Module E imposes a variety of compliance requirements in order for a demand response program to qualify, many of which Rider L does not meet. The purpose of Rider L is not to create a short term capacity resource; rather it is to create the price responsive demand response equivalent of a long term generation resource, similar to the combustion turbine generator (CTG). Therefore, the program's compliance with Module E was considered as necessary for the program design to have value to the Company and to its customers. The Company believes Rider L has long term value, such as the deferral of the need for additional capacity resources as well as opportunities for customers to receive compensation for their ability to adjust load, even though the tariff does not meet the requirements of Module E.

This may not always be the case, however. AmerenUE understands that members of the Organization of MISO States (OMS) have discussed petitioning MISO

[1] Midwest Independent Transmission System Operator, Inc.

for the inclusion of price-responsive demand response programs as a LMR. This would be justifiable if statistically valid operational data indicates that these programs are as likely to perform as traditional curtailment demand response resources. This change has not yet occurred within MISO, but if it does, AmerenUE's experience with Rider L would provide it an advantage over those utilities that have never had a price responsive demand response program.

14. Both OPC and Staff point out that Rider L is different than the Industrial Demand Credit program which had been described in AmerenUE's last IRP filing. Again, AmerenUE does not deny this statement. Not only are they two different tariffs, they are illustrations of the two very different types of demand response programs discussed in Section II above.

Rider L is not a replacement for the Company's currently suspended Rider IDR. The development of Rider L began in earnest after the Company attended a meeting in Chicago in December of 2008 where discussion of Baltimore Gas & Electric (BGE) Smart Energy Pricing Pilot, which included a Peak Time Rebate (PTR) program, occurred. At least one staff member, Adam McKinney, attended this presentation. After the presentation, Mr. McKinney expressed an interest in the PTR approach. Shortly thereafter, on January 5, 2009, Staff members Mr. McKinney and Dr. Mike Proctor met with several individuals from AmerenUE and Ameren Services. Many demand response topics were covered, including the status of demand response programs in Missouri, whether price responsive demand response programs could interplay with MISO Module E requirements and, specifically, the BGE Smart Energy Pricing Pilot. During this meeting, Staff again indicated an interest in PTR programs. Over the next several months, AmerenUE considered this approach and ultimately designed the tariff that is under consideration in this case.

15. OPC points out that AmerenUE has not yet filed a revised IDR tariff. Again, this is a correct statement. However, this fact has nothing to do with whether or not the Commission should approve Rider L. The filing of a revised IDR tariff has been complicated by the stringent requirements of Module E. AmerenUE continues to consider its options for the IDR tariff and will be holding a meeting with the parties in Case No. ET-2007-0459, the case in which Rider IDR was initially approved by the Commission, to get additional ideas on how to create a tariff that qualifies under Module E and still provides AmerenUE with a useable resource.

16. OPC and Staff allege that Rider L does not comply with the terms of Senate Bill 376. Of course, Senate Bill 376 (SB 376) was only passed by the General Assembly on May 14th and it has not yet been signed by Governor Nixon. Presuming it is signed, SB 376 will not become law until August 28, 2009. Accordingly, the current Rider L tariff can become effective and operational for the summer of 2009 and be modified, if necessary, next fall.

Even if SB 376 was currently effective, AmerenUE disagrees with OPC's and Staff's analysis of the law and does not believe the statute conflicts with Rider L. The basis for the claimed inconsistency stems from the portion of SB 376 (393.1124.10) which states, "Customers electing not to participate in an electric corporation's demand-side programs under this section shall still be allowed to participate in interruptible or curtailable rate schedules or tariffs offered by the electric corporation." Rider L does not allow customers who have opted out of demand-side programs to participate. OPC and

Staff believe that restriction would not be allowed once SB 376 is law. AmerenUE disagrees.

Turning first to the definition section (386.1124.2), it defines "Demand-side program" as "any program conducted by the utility to modify the net consumption of electricity on the retail customer's side of the electric meter, including, but not limited to energy efficiency measures, load management, **demand response, and interruptible or curtailable load**." (Emphasis added.) It appears the Missouri Legislature created two categories of demand response, one of which is interruptible or curtailable load programs. Otherwise, the definition of "demand-side programs" would not have included both the phrase "demand response" and also "interruptible or curtailable load."

"Demand response" is defined as "measures that decrease peak demand or shift demand to off-peak periods." "Interruptible or curtailable rate" is defined as "a rate under which the customer receives a reduced charge in exchange for agreeing to allow the utility to withdraw the supply of electricity under certain specified conditions."

Clearly, Rider L is a demand response program. It is not, however, under the definitions set forth by the Missouri Legislature, an interruptible or curtailable rate. Customers who participate in Rider L will not pay a reduced charge (rate); they will pay the rate for their customer class. A customer who participates in Rider L does not agree to allow AmerenUE to withdraw the supply of electricity; whether or not the customer reduces its load in response to the price signal sent by the Company is an entirely voluntary decision made by each participating customer.

These definitions are important, as SB 376 only requires AmerenUE to allow a customer who opts out of demand-side programs to participate in interruptible or curtailable rate schedules or tariffs. Rider L is not an interruptible or curtailable rate tariff, thus AmerenUE will be under no obligation to open the tariff to participation from customers who elect not to participate in its demand-side programs.

AmerenUE understands that the language of its filed Rider L tariff has caused confusion for both OPC and Staff, as the tariff incorrectly uses the words "curtail" and "curtailment" as defined by SB 376. Part of this was due to the timing of when the tariff was drafted and when SB 376 was voted upon. Regardless, this was an imprecise language choice on the part of the Company as curtailment inherently implies a load reduction at the demand of the utility and Rider L relies upon the voluntary choice of participating customers to achieve a reduction in peak demand. The phrase "load reduction" is a more appropriate and accurate description of what occurs under this tariff.

17. OPC and Staff point out that AmerenUE did not provide a proposed evaluation plan with its filing. Normally, the Company provides basic information on how it plans to evaluate its demand-side programs. It failed to provide that information to OPC and Staff at the time it filed Rider L. That information has since been sent to both OPC and Staff. It is attached to this pleading as Exhibit 1.

18. OPC objects to Rider L because they believe it sets a floor price but not a ceiling price. Again, this statement is not accurate. Rider L has both a capacity component and an energy component. The capacity price is designed to reflect the cost of a CTG adjusted for capacity equivalence and risk, i.e., the customer may not deliver the agreed upon load reduction. Both the ceiling and floor price for the capacity component is the long-term capital cost of a CTG. Energy is priced at market and is also

adjusted for risk. Market price, by definition, is the price that the market will bear. There is neither a floor nor a ceiling.

19. Finally, Staff objects to a total resource cost (TRC) value that is calculated over one year while the avoided cost components are calculated over a longer time frame. The TRC is defined as the net present value of benefits divided by the net present value of costs. The Company calculated the 1st year TRC value for Rider L to range from a low of approximately 2.2 to a high of approximately 2.5. The Company elected to calculate TRC for the first year because there are many risk factor assumptions that went into the calculation of the TRC that will be much better understood after the 1st year results of program evaluation. After gaining this experience, the Company will be better able to calculate a 20-year TRC for the program with existing assumptions.

20. In short, AmerenUE asks the Commission to allow the Company to pursue a price responsive approach to demand response and to approve Rider L, recognizing this approach will, in large part, underlie AmerenUE's future demand response efforts. AmerenUE does not expect to be faced with the need for a capacity addition in the next few years, but that decision will come at some point. The Company does not believe it prudent to wait to implement demand response programs. Participating customers will require time to develop the confidence to rely on the existence of the tariff, the certainty that AmerenUE will send price signals and to learn how to incorporate that knowledge into their operations. AmerenUE will need time to learn how to anticipate and perhaps predict customer response to this program. A short term view which resists implementation of demand response programs until the utility is facing a resource addition decision is the wrong approach. Now is the time to implement this program and

to learn how to make it work, when the load reduction is not critical to the reliability of AmerenUE's electric service. The Company asks the Commission to support AmerenUE in its efforts to develop and implement a program that, over time, can make a measurable difference in its peak load requirements.

WHEREFORE, for the reasons listed above, AmerenUE asks the Commission to approve Rider L so that it goes into effect no later than July 9, 2009.

Respectfully submitted,

UNION ELECTRIC COMPANY,
d/b/a AmerenUE

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CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing have been e-mailed or mailed, via first-class United States Mail, postage pre-paid, to the service list of record this 18th day of June, 2009.

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Exhibit 1

Evaluation Plan

The evaluation, measurement and verification of Rider L – Peak Power Rebate will be performed by the Evaluation Contractor for AmerenUE's Business Energy Efficiency Portfolio, ADM Associates, Inc. The overall evaluation objectives will be to provide an impact evaluation including determining energy and peak demand savings attributable to each energy efficiency program and including calculation of net to gross ratios. The Evaluation Contractor will also provide a process evaluation including measuring customer satisfaction with the programs, and provide suggestions for improving the design and implementation of existing and future programs.

Evaluating the demand reduction impacts of the Program will require a comparison of each customer's load during the peak curtailment periods with the customer's baseline peak demand. Because participating customers will all have interval meters, Evaluator will use the data collected with these meters to determine baseline peak demand. For example, a customer's baseline can be calculated by selecting similar days that occurred prior to the curtailment event day (but not including any weekend, holiday, or other curtailment event days). Three days with the highest overall energy consumption during the curtailment hours can be selected from among these similar days and an hourly average baseline calculated from these data.

In selecting the set of similar hours for determining baseline peak energy use, Evaluator will consider various factors, including weather conditions and weekly cycles of production for industrial facilities.

The Evaluation Contractor will provide AmerenUE with monthly status reports on evaluation efforts, quarterly reports that review major findings and observations, annual reports with impact and process evaluations for the program year and recommendations for improvement, and a final project report with impact and process evaluations for the full program term.

Evaluator will also conduct a process evaluation for the program. In the process evaluation, Evaluator will examine the efficacy of the entire process and the effectiveness of the targeting and marketing strategies.