

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

In the Matter of Union Electric Company)	
d/b/a Ameren Missouri's Filing to Adjust)	
Rates Under Its Approved Fuel and)	Case No. ER-2011-0317
Purchased Power Cost Recovery)	Tariff No. YE-2011-0485
Mechanism Pursuant to 4 CSR)	
240-20.090(4).)	

RESPONSE TO MIEC'S MOTION FOR RECONSIDERATION

COMES NOW Union Electric Company d/b/a Ameren Missouri (hereinafter "Ameren Missouri" or the "Company"), and for its response to the Motion for Reconsideration filed by the Missouri Industrial Energy Consumers ("MIEC") on May 12, 2011,¹ states as follows:

1. MIEC's principal basis for seeking reconsideration of the Commission's Order Approving Interim Rates issued in this proceeding on May 4, 2011, is that the Staff's Recommendation to Approve Tariff Sheet recommended approval of the Company's sixth FAC adjustment "subject to true-up and prudence reviews." MIEC Motion ¶ 3. MIEC misapprehends both the operation of the Company's fuel adjustment clause ("FAC") and the Commission's FAC rules.

2. The adjustment that will begin when the tariff sheet that has been approved takes effect on May 25, 2011 will be reflected in the sixth recovery period under the FAC tariff, which will run from June 2011 through May 2012. The adjustment is based upon changes in net fuel costs during the accumulation period that ran from October 2010 through January 2011. Like all FAC adjustments, the adjustment is an interim adjustment, meaning that the FAC rate

¹ This Response does not address MIEC's second Motion for Reconsideration, which was filed only yesterday, May 18, 2011. The Company will address that second Motion in due course in a separate filing. However, the relief sought by that second Motion also can not be granted because that relief, like the relief sought in the May 12 Motion, violates the Company's fuel adjustment clause tariff and the Commissions fuel adjustment clause rules.

implemented by the adjustment may later be changed based upon a true-up that is *completed* before the adjustment filing is made or based upon a prudence disallowance that is *completed* before the adjustment filing is made.

3. The Staff's request that the adjustment be approved "subject to true-up and prudence reviews" has nothing to do with the results of the prudence review for accumulation periods one and two at issue in Case No. EO-2010-0255, which was *not* completed when the adjustment filing was made on March 25, 2011.² Had the Commission's order in Case No. ER-2010-0255 been final and in effect before the Company made the FAC adjustment filing that will be implemented starting May 25, then the Company would have included the prudence adjustment in that filing. Similarly, if a true-up is completed prior to an adjustment filing, the amounts that must be trued-up will also be included in that adjustment filing. This would be the case whether the true-up amount would increase the amount of the adjustment or decrease the amount of the adjustment.

4. That prudence disallowances (or true-up adjustments) that are decided *after* an FAC rate adjustment has already been filed are not to be included in the *already-filed* FAC rate adjustment, but rather, are to be included in the first adjustment filing occurring after the prudence review of true-up order is issued, is borne out by the Commission's FAC rules. 4 CSR 240-20.090(4) provides that an FAC adjustment filing will take effect without any action of the Commission 60 days after it is filed so long as it is in accordance with the FAC tariff and the FAC rules at the time it is filed.³ Indeed, the rule is quite specific: if the filing is in compliance

² The Commission's prudence review order is in fact still subject to change, given that an application for rehearing remains pending.

³ The Commission's routine practice has become to approve the adjustment filing by delegation after the Staff confirms that the filing is in compliance with the FAC tariff and the FAC rules, but the Commission could simply allow the adjustment to take effect. 4 CSR 240-20.090(4) ("[I]f no such [interim rate adjustment] order is issued, the tariff schedules shall take effect sixty (60) days after the tariff schedules were filed.").

with the FAC rules, Section 386.266, RSMo. and the FAC tariff, the Commission “shall” either issue an interim rate order approving the adjustment or it shall simply take effect after sixty days. The FAC rules provide no authority for the Commission to change the Company’s FAC adjustment filing, which was in full compliance with the rules, the statute and the FAC tariff when made, because of events taking place subsequent to that lawful filing. Indeed, the rules prohibit that result.

5. Moreover, the FAC tariff, which has the force and effect of law, also requires that a sum be include in the “R” factor if there are adjustments “ordered [past tense] by the Commission.” The “R” factor is part of the formula used to calculate the FAC adjustment itself. When the formula was applied to the accumulation period at issue, there had been no adjustment “ordered by the Commission,” which necessarily dictated that the value of the “R” factor in the formula was zero. When the next adjustment filing is made, there will have been an adjustment ordered by the Commission, which will necessarily dictate that the “R” factor have a value equal to the ordered adjustment, including accrued interest. It is worth noting that the “I” factor, which includes interest in the filing, also contemplates that only interest accrued prior to the filing date will be included in the adjustment. Per the formula, the Commission is not to “update” to account for additional interest accruing after the filing date, but before an order is issued approving the FAC adjustment or before the FAC adjustment becomes effective according to its terms.

6. As noted, the statute, the Commission’s rules, and the FAC tariff specifically provide for the accrual and payment of interest at the Company’s short-term borrowing rate on all prudence disallowances or true-up amounts. The \$17,169,838 that under the FAC rules will be included in the Company’s next FAC adjustment filing (on or about October 1, 2011) already

includes such interest through September 30, 2009. Interest has continued to accrue on that sum since September 30, 2009, and all interest that has accrued on the sums disallowed as of the time of the October 2011 adjustment filing will also be included in the FAC adjustment made by that filing. Interest will also continue to accrue on that part of the sums disallowed as a result of the prudence review that have not been returned to customers until the last dollar is returned. Consequently, ratepayers will be made entirely whole and the Commission's order in Case No. ER-2010-0255 will be entirely implemented when that October 2011 adjustment filing is made.

7. The Commission must follow the tariff and its rules and allow the adjustments to occur as they require. Although the tariff requires that the prudence disallowance be reflected in the next adjustment filing, customers will be compensated for the time value of the adjustment with interest at the Company's short-term borrowing rate, as explained above.

WHEREFORE, for the reasons stated herein, Ameren Missouri respectfully requests the Commission deny MIEC's Motion for Reconsideration.

Dated: May 19, 2011

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Response was served upon counsel of record for all parties on the Commission's service list for this case via e-mail on this 19th day of May, 2011.

/s/ James B. Lowery