

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

In the Matter of Union Electric Company, d/b/a )  
AmerenUE's Tariff to Increase Its Annual )  
Revenues for Electric Service. )

**Case No. ER-2011-0028**  
Tariff No. YE-2011-0116

**STAFF'S RESPONSE TO AMEREN'S MOTION TO STRIKE OR  
OTHERWISE DISALLOW PORTIONS OF THE PREPARED  
SURREBUTTAL TESTIMONY OF DAVID MURRAY**

**COMES NOW** the Staff of the Missouri Public Service Commission, by and through counsel, and for its Response to Ameren's Motion to Strike or Otherwise Disallow Portions of the Prepared Surrebuttal Testimony of David Murray, states as follows:

1. Ameren moves for an order striking or "otherwise disallowing" portions of Mr. Murray's surrebuttal testimony because it purportedly "contains a new basis for a \$31 million disallowance not previously identified in the Staff's direct case[.]" This, Ameren asserts, "violates the Commission's rules regarding pre-filed testimony, as well as the Order Adopting Procedural Schedule entered by the Commission in this case." Staff responds that Ameren's characterization of Mr. Murray's testimony, and thus its basis for striking or disallowing it, is just not true.

2. Contrary to Ameren's motion, Staff has not engaged in "sandbagging," classic or otherwise. Mr. Murray testified in his surrebuttal that he **could**, at some future time, in some future case, "make recommendations to disallow costs Ameren Missouri incurred due to its impaired credit quality[.]"<sup>1</sup> However, such a recommendation is not part of Staff's case in this matter; neither is it offered as a "new basis" for the

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<sup>1</sup> Murray Surrebuttal Testimony, p. 33, lines 3-6.

disallowance of the \$31 million at issue with respect to the Sioux Scrubbers project. These points were emphasized to Ameren's counsel during its second deposition of Mr. Murray on April 25, 2011.

3. The negative impact of Ameren Corporation's merchant generation operation on Ameren Missouri's access to credit is a topic that Mr. Murray necessarily addresses as part of his testimony on cost of capital. At page 30, for example, he compares KCP&L's access to short-term capital on very favorable terms to the unfavorable terms available to Ameren Missouri because of the dead weight effect of Ameren Corporation, despite the fact, mentioned on page 31, that Ameren Missouri alone has a larger total asset base than Great Plains Energy on a consolidated basis. In Murray's opinion, Ameren Missouri should be *more* creditworthy than KCP&L, not *less*: "Ameren Missouri's stand-alone credit metrics and business risk supports a higher credit profile that would allow it to have a higher long-term credit rating and short-term credit rating, absent its affiliation with Ameren's other operations."<sup>2</sup>

4. Far from "sandbagging" Ameren Missouri, Mr. Murray's testimony regarding concerns raised by Ameren's management of its credit facility is intended to alert the Commission to a significant, ongoing weakness in the management of that utility. Mr. Murray, as a Commission employee, is obliged to make that warning. As he points out, this problem **could** result in a detriment to the ratepayers: "To the extent that Ameren Missouri includes these higher rates in its capitalization of construction costs, this could be detrimental to Missouri ratepayers."<sup>3</sup>

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<sup>2</sup> Murray Surrebuttal Testimony, p. 31, line 22, to p. 32, line 2.

<sup>3</sup> Murray Surrebuttal Testimony, p. 31, lines 2-4.

5. Staff has not changed its position. The proposed disallowance is based upon Ameren's decision to suspend construction of the Sioux Scrubbers despite its access to satisfactory credit resources: "they did have access to the credit facilities at the time the decision was made."<sup>4</sup> That is the only basis for the disallowance and that has not changed. At the same time, the Commission needs to be aware of a lurking, potential problem with respect to Ameren Missouri's access to capital, which may result in higher costs to ratepayers than necessary.

6. Staff is perfectly willing to allow Ameren to conduct "additional direct examination of Ameren Missouri witness Jerre Birdsong when Mr. Birdsong takes the stand on this issue during the evidentiary hearing."

7. Staff has addressed elsewhere Ameren's "sandbagging" of Staff through the testimony of its witness, William Davis.

**WHEREFORE**, having fully responded to Ameren's motion, Staff prays that the Commission will deny the same; and grant such other and further relief as may be just in the premises.

Respectfully submitted,

s/ Kevin A. Thompson  
**KEVIN A. THOMPSON**  
Missouri Bar Number 36288  
Chief Staff Counsel

Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102  
573-751-6514 (Voice)  
573-526-6969 (Fax)

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<sup>4</sup> Deposition of Roberta Grissum, p. 79, lines 4-6.

kevin.thompson@psc.mo.gov

Attorney for the Staff of the Missouri Public  
Service Commission.

**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing was served, either electronically or by hand delivery or by First Class United States Mail, postage prepaid, on this **25<sup>th</sup> day of April, 2011**, on the parties of record as set out on the official Service List maintained by the Data Center of the Missouri Public Service Commission for this case.

s/ Kevin A. Thompson