

**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)	Case No. EU-2008-0141
Accounting for Extraordinary Costs)	
Relating to Damage from the January)	
2007 Ice Storm.)	

**RESPONSE TO STAFF’S RECOMMENDATION
TO GRANT ACCOUNTING AUTHORITY ORDER**

COMES NOW Union Electric Company d/b/a AmerenUE (AmerenUE or Company) and in response to the Recommendation to Grant Accounting Authority Order filed by the Staff of the Missouri Public Service Commission (Staff) on January 8, 2008 states as follows:

1. AmerenUE initiated this proceeding on November 5, 2007, when it filed its application for an Accounting Authority Order (AAO) to address substantial costs that the Company incurred in response to an extraordinary ice storm that occurred on January 13, 2007. The ice storm resulted in outages for approximately 284,000 AmerenUE customers, and AmerenUE sought accounting treatment for a total of \$24.7 million in costs that it incurred to respond to the storm and restore service to customers.¹

2. On January 8, 2008 the Staff filed its recommendation to grant the Accounting Authority Order. However, the Staff recommended that the Commission impose the following five conditions:

¹ One indication of the extraordinary magnitude of these costs is that in AmerenUE’s recent rate case, the Staff recommended inclusion of only \$2.7 million in storm response costs for all “normal” storms incurred throughout the year. See Case No. EC-2007-0002, Exh. No. 225, Direct Testimony of Greg R. Meyer, p. 10.

- 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.

The Staff indicates that if all five of these conditions are not acceptable to AmerenUE, then the Commission should order a prehearing conference, develop a procedural schedule and proceed to an evidentiary hearing.

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 Staff proposes for amortization.

5. AmerenUE also notes that under its proposal, amortization of its legitimate storm response costs will not be long in coming. In its Application, AmerenUE agreed to condition the granting of its AAO on the requirement that it file a rate case within two years of the Commission's order in issuing the AAO. Since the filing of its Application, the Company has publicly announced its intention to file a rate case much sooner, in the second quarter of 2008. This is not a situation where the Company is requesting to delay the commencement of amortization indefinitely, or to a date in the far distant future.

6. The Commission clearly has the authority to order the amortization to commence as AmerenUE has requested, so that the Company has an actual opportunity to recover its prudently incurred costs. Although the Staff Recommendation cites a Kansas City Power & Light case (Case No. EU-2002-1048) and an Aquila, Inc. case (Case No. EU-2002-1053) in which ice storm cost amortization began retroactively (immediately following the storms), in those cases the utilities agreed with the recommended conditions. Although AmerenUE cannot speculate what may have motivated other utilities to agree to this condition, it is noteworthy that neither utility had a pending rate case at the time the amortization began. In any event, conditions that other utilities may have agreed to in two specific cases cannot deprive AmerenUE of the opportunity to recover its legitimate, prudent costs of responding to this ice storm.

7. In numerous other cases involving accounting authority orders, the Commission has permitted the amortization of legitimate costs to begin at a point in time

when the utility would have the opportunity to recover the costs. For example, in addressing costs incurred by utilities to comply with a 2005 emergency amendment to the Cold Weather Rule, the Commission approved an accounting authority order “...that allows current losses due to the rule to be separately accounted, thus preserving the uncollected, deferred fees *until the next rate case*.” State ex rel. Missouri Gas Energy v. Public Service Commission, 210 S.W.3d. 330, 336 (Mo.App. W.D. 2006) (emphasis supplied.) The Western District Court of Appeals explicitly found this type of AAO to be permissible. Id. See also UtiliCorp United Inc. d/b/a Missouri Public Service and St. Joseph Light and Power Company, 2002 WL 535120 (Mo. P.S.C.) (emergency Cold Weather Rule costs deferred through an AAO until a subsequent rate case); Missouri Gas Energy v. Public Service Commission, 978 S.W.2d. 434, 436 (Mo.App. W.D. 1998) (costs incurred as a result of the 1989 Gas Line Safety Rules deferred through an AAO “...which allows the utility to defer and capitalize certain expenses *until the time it files its next rate case*.”) (emphasis added); Re: Missouri Gas Energy; 2001 WL 1917767 (Mo. P.S.C.) (additional Gas Line Safety Rules costs deferred through an AAO; amortization of costs to begin in 18 months if Missouri Gas Energy does not file a rate case); Re: Kansas City Power & Light Company, 2002 WL 31107509 (Mo. P.S.C.) (amortization of ice storm costs begins on the effective date of the order authorizing the AAO); Re: St. Louis County Water Company, 1995 WL 769951 (Mo. P.S.C.) (costs of water main replacement program deferred for up to 24 months, provided that the utility files a rate case in that period.) Re: Missouri-American Water Company, 237 P.U.R. 4th 353 (2004) (parties agree that 9/11 security costs deferred through an AAO should be amortized beginning with the effective date of the order authorizing the AAO).

8. As recent events have demonstrated, prompt restoration of utility service following storms is very important to customers. AmerenUE believes it did a very good job in quickly restoring service following the January 13, 2007 storm under extremely adverse conditions². The Commission should do its part to facilitate the prompt restoration of service after storms by allowing utilities the opportunity to recover their legitimate costs of performing these restorations. It is important to note that granting the AAO AmerenUE is requesting will not, in itself, result in the recovery of any costs or any change in rates. However, if AmerenUE demonstrates in its next rate case that these costs were prudently incurred to restore service, the AAO will permit AmerenUE the opportunity to recover these costs. The Company simply should not be required to absorb 40-50% of those costs as Staff's proposed amortization would require.

9. Finally, Staff has proposed that if AmerenUE does not agree to all of its conditions this case must be set for hearing. AmerenUE respectfully disagrees. No hearing is required in cases where an AAO is requested (Re: Missouri-American Water Company, supra at 364), and this case does not merit a discretionary hearing. AmerenUE believes that the Commission can determine the appropriate commencement of the amortization period based on the pleadings, with the ultimate recovery of costs to be determined in AmerenUE's next rate case.

² AmerenUE received the Edison Electric Institute's "Emergency Recovery Award", recognizing its outstanding efforts in restoring service following the January 13, 2007 ice storm.

WHEREFORE, AmerenUE respectfully requests that the Commission issue its order granting the accounting authority as requested in AmerenUE's Application.

Respectfully submitted,

UNION ELECTRIC COMPANY,
d/b/a AmerenUE

By: /s/ Thomas M. Byrne

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Response was served on the following parties via electronic mail (e-mail) on this 18th day of January, 2008.

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