

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

In the Matter of the Application of	)	
Union Electric Company for Authority	)	
To Continue the Transfer of	)	Case No. EO-2008-0134
Functional Control of Its Transmission	)	
System to the Midwest Independent	)	
Transmission System Operator, Inc.	)	

**RECOMMENDATION RESPECTING PROCEDURAL SCHEDULE**

COMES NOW Union Electric Company d/b/a AmerenUE (Company or AmerenUE), and in response to a directive from the Deputy Chief Regulatory Law Judge (RLJ) presiding over this case, hereby files this Recommendation respecting a procedural schedule in this case.<sup>1</sup>

1. On December 17, 2007, the Company filed its Notice of Material Filing at the Federal Energy Regulatory Commission (FERC) and Request to Suspend Further Proceedings (FERC Filing Notice) in this case. The Company made its suspension request because of the FERC filing described in the FERC Filing Notice, and the potential effect that filing could have on the costs and benefits associated with the Company's continued participation in the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) relative to other options, all as outlined in greater detail in the FERC Filing Notice.

2. The Commission also conducted a Prehearing Conference on December 17, 2007, at which the RLJ directed the Company to file a pleading, on behalf of all parties if possible, addressing whether the Stipulation and Agreement in Case No. EO-2003-0271 (Stipulation) might require Commission action on the Company's Application by July 31, 2008. The RLJ

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<sup>1</sup> This Recommendation is being filed on December 28, 2007, rather than on December 26, 2007, in view of the Commission's Order Granting Additional Time to File Procedural Recommendation. It is also being filed by the Company, rather than by the Staff, given that the RLJ asked the Company to take the lead on this filing at the Prehearing Conference. Staff has reviewed, and concurs in, this Recommendation.

raised this question in view of the Company's request to suspend further proceedings in this case, and footnote 9 on page 18 of the Stipulation. Footnote 9 suggests (based upon the date on which the Company transferred functional control of its transmission system to GridAmerica, LLC (May 1, 2004)) that the Commission might need to act on the present Application by July 31, 2008.

3. For the reasons discussed below, the July 31, 2008 date no longer applies. On December 21, 2007, the Company notified the Midwest ISO of the Company's intention to withdraw from the Midwest ISO effective on or after December 31, 2008, subject to required regulatory approvals, including from the Commission. A copy of the Company's Notice to the Midwest ISO is attached hereto and incorporated herein by this reference as **Exhibit A**. The Company's December 21, 2007 Notice to the Midwest ISO was given to preserve the Company's rights under the TOA,<sup>2</sup> all as outlined in greater detail in that Notice. As a result of giving the December 21, 2007 Notice, the Company (subject to required regulatory approvals) is now in a position where it can withdraw from the Midwest ISO on or after December 31, 2008 (including as of the date its current permission and authority from the Commission expires on April 30, 2009), without the need for giving any further notice to the Midwest ISO. Consequently, the language in footnote 9 of the Stipulation (which was principally tied to documents respecting AmerenUE's now-terminated participation in GridAmerica) is no longer applicable or relevant, and does not require a Commission decision in this case by July 31, 2008.

4. As noted, the Company's current permission and authority from this Commission to participate in the Midwest ISO does not expire until approximately 16 months from now (on

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<sup>2</sup> "TOA" is defined in the December 21, 2007, Notice to the Midwest ISO. The TOA is the same document defined as the "Midwest ISO Agreement" in the Stipulation.

April 30, 2009). A several-month suspension of further proceedings in this case to allow the parties and the Commission to evaluate the progress and potential outcome of the FERC proceeding will still leave the Commission ample time to process this case in advance of April 30, 2009 and, given the Company's December 21, 2007 Notice to the Midwest ISO, the Company remains in a position to continue its Midwest ISO participation, if permission is extended by this Commission, or to timely end it, if permission is not extended by this Commission.

5. The Company has timely protested the filing by the Midwest ISO and certain of its transmission owners at the FERC, and both the Commission and the Office of the Public Counsel have intervened in the FERC proceeding. A copy of the Company's Motion to Intervene and Protest is attached hereto and incorporated herein by this reference as **Exhibit B**.<sup>3</sup>

6. The parties have conferred respecting the Company's request to suspend further proceedings in this case, and all parties (with the exception of the Midwest ISO) either agree to a suspension of further proceedings in this case to June 30, 2008, or do not oppose a suspension of further proceedings in this case to June 30, 2008. The Midwest ISO may file its own pleading respecting its position on the suspension request, which the Company understands to be that a suspension should only be granted to sometime in February, 2008 so that the parties may provide status reports to the Commission at that time.<sup>4</sup>

7. No party knows what the FERC will or will not do by February 1, 2008. Regardless of the FERC's action on or before that date, which could include setting the matter

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<sup>3</sup> The exhibits to the Company's Motion to Intervene and Protest are omitted from Exhibit B because they are voluminous (file size – 8 MB). The entire filing is available on the FERC's website.

<sup>4</sup> As noted below, any party can file whatever status report it wants at whatever time it wants, but that does not mean a very short suspension to February 2008 is appropriate, and no party other than the Midwest ISO supports such a short suspension.

for hearing, it is highly likely that the Company will need several months to continue discussions with the Midwest ISO or certain of its transmission owners respecting the revenue distribution issues which are the subject of the FERC filing at issue. Given that the Commission would have 10 full months to process this case if it is not resolved by the end of the requested suspension period (June 30, 2007), the Company believes a more prudent and reasonable course for the Commission to take is to suspend further proceedings until June 30, 2008, and to require a filing by the Company by June 30, 2008, respecting the status of this case. The Company notes that the Commission, as an intervenor in the FERC case at issue, will have full and timely information respecting the progress of the FERC case and could, if it deemed warranted, modify the suspension period or require other filings by the Company or any other party to the case respecting the status of the FERC case or further proceedings in this case between now and the end of the suspension period.

8. The parties have also conferred respecting the fact that it is expected that Staff employees (principally Dr. Michael Proctor and Greg Meyer) will assist the Commission respecting the Commission's intervention in the subject FERC case, and will also act as members of the Staff respecting Staff's participation as a party to this case. All parties have expressed that they have no objection to Dr. Proctor's and Mr. Meyer's providing assistance to both the Commission in the FERC case and as Staff members in the present case.

WHEREFORE, with the support of, or without opposition from, all parties to this case with the exception of the Midwest ISO, the Company renews its request that further proceedings in this case be suspended and, specifically, that further proceedings be suspended to June 30, 2008.

Dated: December 28, 2007.

Respectfully submitted,

**SMITH LEWIS, LLP**

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served via e-mail, to the following parties, on the 28th day of December, 2007, as follows:

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