

**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 TO OPC’S MOTION TO SUSPEND TARIFF**

COMES NOW Union Electric Company d/b/a AmerenUE (AmerenUE or the Company) and for its Response to the Office of the Public Counsel’s (OPC) *Motion to Suspend Tariff and Motion for Expedited Treatment (Motion to Suspend)*, states as follows:

1. On May 14, 2009, AmerenUE filed revised tariff sheets for Rider L (Rider L or the tariff). The revised Rider L is a voluntary demand response program which will send price signals to customers to encourage changes in electric use behaviors. The tariff was filed with a 30 day effective date of June 13, 2009.

2. On June 8, 2009, OPC filed its *Motion to Suspend* asking that the tariff sheets for Rider L be suspended so that it could further consider AmerenUE’s filing. OPC also requested that its *Motion to Suspend* be addressed at the Missouri Public Service Commission’s (Commission) June 10, 2009 Agenda meeting.

3. AmerenUE does not object to a short extension of the effective date of the tariff, until July 8, 2009. In the past, AmerenUE has voluntarily extended the effective date of other tariffs when the Staff had indicated that it needed more time to consider a tariff. If OPC had made a similar request, the Company would have likely extended OPC the same courtesy. AmerenUE does not, however, support an extended suspension of Rider L, as that would prevent it and its customers from gaining experience with the

revised tariff in the summer months of 2009. An extended suspension will render this tariff worthless to AmerenUE for this year, depriving the customers of the opportunity to use this tariff and impairing AmerenUE's ability to measure the effectiveness and benefits of the tariff.

4. Additionally, AmerenUE requests the Commission set a hearing on the calendar for June 26, 2009. AmerenUE has consulted the Commission's hearing calendar and June 26th is available. A hearing, if one is necessary, on that date would allow the Commission time to issue a decision on or prior to July 8, 2009.

5. 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. The second is price responsive, in which the customer exercises control of when to voluntarily reduce load. The second form of demand response is based on time sensitive pricing, such as this Rider L tariff. Price responsive programs empower customers to choose the level of risk that best suits them. The Company prefers to begin sending consistent, long-term pricing signals to customers beginning with the start of the 2009 summer season, in order to gain valuable experience on customer receptivity to a totally voluntary price responsive product. 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 peak demand reductions to AmerenUE. An example of another cutting edge application where the Company intends to utilize price response is the Company residential smart grid pilot which is expected to be operational by August 1, 2009.

6. Although the Company does not object to OPC's request for a short suspension of the tariff, there are aspects of OPC's *Motion to Suspend* that create inaccurate and misleading impressions and to which further response is required. OPC served AmerenUE with 29 data requests on May 18, 2009. The answers to those data requests were due and were timely provided on June 8, 2009, with the exception of one answer which turned out to be too large to send via email (over 67 MB) and so it was sent for overnight delivery. AmerenUE was not late with its responses. AmerenUE also did not object to answering data requests except to the extent they requested information about an affiliate that was not doing business with or on behalf of AmerenUE. OPC took no issue with that objection.

7. The decision to issue data requests to AmerenUE on May 18, 2009 was one entirely within the control of OPC and OPC alone. OPC is familiar with the Commission rules on data requests and was well aware when those answers would be due from the Company. If OPC had asked AmerenUE to participate in a telephone discussion about this tariff, as Staff regularly does when it has questions about tariffs the Company has filed, it likely could have found out the answers to the multitude of questions posed in its *Motion to Suspend*. The Company understands that 30 days does not provide a lot of evaluation time if one uses the traditional data request method of obtaining information and so it has typically worked hard with Staff to provide the information necessary for Staff to supply the Commission with its evaluation of tariffs AmerenUE has filed. OPC knows of the interaction between AmerenUE and Staff on those tariffs, as OPC is often included in those discussions. OPC chose not to pursue that approach and instead chose the alternative of sending a large number of data requests.

8. Finally, AmerenUE disagrees with OPC's list of alleged "problems" with Rider L. Many issues listed in OPC's *Motion to Suspend* are not true concerns with Rider L, but rather questions about when AmerenUE plans to take some other action, such as filing a revised IDR tariff (which is a different tariff entirely). AmerenUE will not address all of OPC's listed "problems" in this response but will address those issues in another pleading to be filed within the Commission's 10 day timeframe to answer a pleading.<sup>1</sup>

9. Importantly, even if OPC believes the tariff should be designed differently in some respect(s), that difference of opinion between OPC and the Company is no reason to prevent the tariff from taking effect before the summer months, so that actual experience with the program can be obtained. As noted, Rider L is a voluntary program. If the results of the program, over time, do not live up to the Company's expectations, changes can be made. What OPC appears to be doing, as it is increasingly inclined to do, is usurp the management prerogatives of the Company to make resource decisions the Company believes are appropriate – supply and demand side resource decisions – based upon OPC's view of what the "right" decision should be. That is not OPC's role and the Commission should not allow itself to become party to OPC's attempts to micromanage the Company's DSM efforts.

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<sup>1</sup> AmerenUE files this pleading today in order to have it on file prior to the Commission taking up OPC's *Motion to Suspend* at its June 10, 2009 Agenda.

WHEREFORE, AmerenUE requests the Commission suspend its Rider L tariff no longer than July 8, 2009, so that the Company may work with OPC to resolve their concerns about the tariff and also schedule June 26, 2009, as a hearing date in the event that resolution cannot be reached between OPC and the Company.

Respectfully submitted,

UNION ELECTRIC COMPANY,  
d/b/a AmerenUE

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Dated: June 9, 2009

## **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 9<sup>th</sup> day of June, 2009.

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