



Commissioners
KELVIN L. SIMMONS
Chair
CONNIE MURRAY
SHEILA LUMPE
STEVE GAW

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.psc.state.mo.us>

October 29, 2001

ROBERT J. QUINN, JR.
Executive Director
WESS A. HENDERSON
Director, Utility Operations
ROBERT SCHALLENBERG
Director, Utility Services
DONNA M. KOLILIS
Director, Administration
DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge
DANA K. JOYCE
General Counsel

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

FILED³
OCT 29 2001

RE: Case No. EO-2001-684

Missouri Public
Service Commission

Dear Mr. Roberts:

Enclosed for filing in the above-captioned case are an original and eight (8) conformed copies of **STAFF'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**.

This filing has been mailed or hand-delivered this date to all counsel of record.

Thank you for your attention to this matter.

Sincerely yours,

Dennis L. Frey
Associate General Counsel
(573) 751-8700
(573) 751-9285 (Fax)
dfrey03@mail.state.mo.us

DLF:ccl
Enclosure
cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

OCT 29 2001

Missouri Public
Service Commission

In the Matter of the Application of Union)
Electric Company d/b/a AmerenUE for an)
Order Authorizing It to Withdraw from)
the Midwest ISO to Participate in the)
Alliance RTO)
)

Case No. EO-2001-684

STAFF'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission"), and respectfully states:

The following proposed findings of fact and conclusions of law are hereby submitted pursuant to the Commission's Order Establishing Briefing Schedule, issued on October 17, 2001. Because the Staff's recommendations in this case are contingent, the proposed findings of fact and the associated conclusions of law are organized in accordance with the four bases for a Commission decision that were laid out in the Staff's case. Additional conclusions of law applicable to all four situations appear at the end.

1. If the Commission's decision is based on the Alliance Companies' performance to date, in launching ARTO

Findings of Fact

- The track record of the Alliance Companies in complying with the orders and directives thus far has been poor. The Alliance Companies have for a period of many months failed to establish an independent Board of Directors along with a Stakeholder Advisory Committee. (Proctor Rebuttal, p.p. 40-41). ARTO is just now in the process of seeking FERC approval of a

managing member on board. The result has been an organizational design process that favors transmission owners at the expense of other stakeholders. (Tr. 198, 222).

- The input from a broad range of stakeholders is necessary to the development of a vibrant competitive wholesale market. (Tr. 211).

- The MISO has long since put in place a Policy Advisory Stakeholder's Group, which has been working diligently to ensure that the desires of customers of the RTO are expressed. (Tr. 210-211). The input from these and other stakeholders has been a driving force behind the development of MISO. (Proctor Rebuttal, p 14).

- The MISO appears to be on a path to be deemed operational by the FERC-established target date of December 15, 2001; it is far ahead of ARTO in terms of its accomplishments aimed at meeting that target date. (Tr. 210).

Conclusion of Law

- AmerenUE's proposed transfer from the MISO to the ARTO is detrimental to the public interest.

2. If the Commission's decision is based on the respective business models of MISO and ARTO

Findings of Fact

- MISO is being organized as a not-for-profit entity, while ARTO is planned to operate on a for-profit basis. (Proctor Rebuttal, p.7).

- Both MISO and ARTO would be regulated monopolies. (Proctor Rebuttal, p.9).

- ARTO, which would be driven by shareholder interests, would likely not be as responsive as MISO to the interests of its customers and other stakeholders, and its capital investment decisions may not contribute to the most efficient systems for the generation and transmission of electricity. (Proctor Rebuttal, pp. 15, 23).

- A major concern is that performance-based incentives might be put in place that would cause the for-profit ARTO to take a position in the electricity market. (Tr. 185).

-For an RTO, the not-for-profit business model is superior to the for-profit model.

Conclusion of Law

- AmerenUE's proposed transfer from the MISO to the ARTO is detrimental to the public interest.

3. If the Commission's decision is based on the likelihood that ARTO will be operational by December 15, 2001

Findings of Fact

- AmerenUE has requested that the Commission render a decision in timely fashion so as not to prevent the ARTO from meeting the target operational date.

- There is a likelihood that the ARTO will not be operational by the FERC-established target date of December 15, 2001 (Tr. 98), and for a considerable period of time thereafter.

- The MISO appears to be on a path to be deemed operational by the FERC-established target date of December 15, 2001; it is far ahead of ARTO in terms of its accomplishments aimed at meeting that target date. (Tr. 210).

Conclusion of Law

- AmerenUE's proposed transfer from the MISO to the ARTO is detrimental to the public interest.

4. If the Commission's decision based on a likelihood that National Grid USA will be able to correct the situation.

Findings of Fact

- National Grid USA has been identified to act as the managing member of the Alliance RTO and is awaiting FERC approval. (Proctor Rebuttal, p. 45).

- At present, there is no reason to believe that National Grid USA is not technically and operationally competent to handle its assignment. (Proctor Rebuttal, p. 45).

Conclusion of Law

- AmerenUE's proposed transfer from the MISO to the ARTO is not detrimental to the public interest, PROVIDED that the following conditions are met:

- a) No transfer unless ARTO is approved by FERC as operational by December 15, 2001.
- b) No transfer unless, by December 15, 2001, ARTO has a FERC-approved permanent and independent Board of Directors in place, as well as a Stakeholder Advisory making recommendations to that Board.
- c) No transfer unless, by December 15, 2001, ARTO and MISO have implemented the IRCA and are providing non-pancaked transmission service within the ARTO-MISO super-region.
- d) No transfer from MISO to ARTO before additional evidence of the December 15, 2001 start-up is filed (December 5), with a follow-up hearing (December 12).
- e) No transfer unless AmerenUE agrees to withdraw from the Alliance if the FERC orders a single RTO in the Midwest, and to take whatever actions are necessary to participate in the single RTO.
- f) No transfer unless AmerenUE agrees to withdraw from the ARTO if ARTO is granted a PBR incentive to take a position in the energy market.

General Conclusions of Law

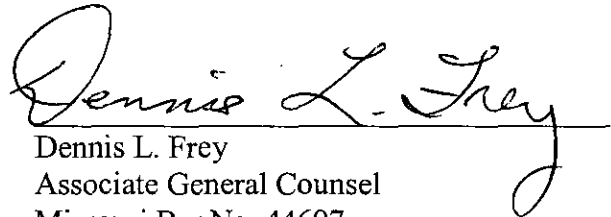
- The Missouri Public Service Commission has jurisdiction over AmerenUE's Application to withdraw from the Midwest ISO in order to participate in the Alliance RTO, pursuant to Sections 386.040, 386.250(7) and 393.190.1 RSMo. 2000.

- The standard to be applied in evaluating AmerenUE's request is whether or not the Company's withdrawal from the Midwest ISO in order to participate in the Alliance RTO would be detrimental to the public interest. *State ex rel. City of St. Louis v. Public Serv. Cmm'n*, 73 S.W.2d 393 (Mo.banc 1934)

WHEREFORE, the Staff prays that the commission accept its Proposed Findings Of Fact And Conclusions Of Law as set out above.

Respectfully submitted,

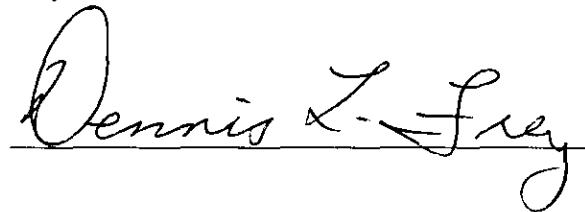
DANA K. JOYCE
General Counsel


Dennis L. Frey
Associate General Counsel
Missouri Bar No. 44697

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-8700 (Telephone)
(573) 751-9285 (Fax)
e-mail: dfrey03@mail.state.mo.us

Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 29th day of October 2001.



Service List for
Case No. EO-2001-684
Verified: October 29, 2001 (ccl)

Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Robin E. Fulton
Schnapp, Fulton, Fall, McNamara & Silvey
135 E. Main St., P.O. Box 151
Fredericktown, MO 63645-0151

Robert C. Johnson
Lisa C. Langeneckert
Law Office of Robert C. Johnson
720 Olive Street, Suite 2400
St. Louis, MO 63101

David B. Hennen
Ameren Services Company
1901 Chouteau
PO Box 66149 (MC 1310)
St. Louis, MO 63166-6149

Diana M. Vulysteke
Bryan Cave LLP
One Metropolitan Square
211 North Broadway, Suite 3600
St. Louis, MO 63102

Duncan Kincheloe
Attorney at Law
2407 W. Ash
Columbia, MO 65203