BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company	)	
d/b/a AmerenUE's Purchased Gas Adjustment	)	Case No. GR-2008-0107
Factors to be reviewed in its 2006-2007	)	
Actual Cost Adjustment.	)	

AmerenUE's Response to Staff's Recommendation

COMES NOW Union Electric Company d/b/a AmerenUE (AmerenUE), in accordance with the Missouri Public Service Commission's (Commission) *Order Directing Response*, and states as follows:

1. On December 15, 2008, the Staff of the Missouri Public Service Commission (Staff) filed its Recommendation in this case.

2. On December 15, 2008, the Commission issued its *Order Directing Response* requiring AmerenUE to file its written response to the Staff Recommendation no later than January 15, 2009.

3. The Staff Memorandum, attached to the Staff Recommendation, contains several recommendations. First, under the heading "GAS COSTS – CORRECTION" Staff proposes to decrease the amount of the Company's over-recovery of gas costs by $15,398 in the Texas Eastern Transmission Corporation (TETCO) service area. AmerenUE agrees with this recommendation and has made the recommended change in its accounting records.

4. Staff's second recommendation stems from Missouri Pipeline Company and Missouri Gas Company (MPC/MGC) charges. Staff's recommendation is for the Commission to keep this case open until such time that AmerenUE has the opportunity to

pursue refund of the overpayments for gas during this ACA period and asks AmerenUE to provide information regarding all actions it has taken to ensure customers pay only the authorized rates.

While AmerenUE does not object to this recommendation, there are several key facts that the Commission should keep in mind when considering the MPC/MGC charges that are not outlined in the Staff's recommendation.

In Case No. GC-2006-0491, the Commission found that MPC/MGC were charging rates in excess of the maximum rates allowed by their tariffs. This finding was based upon tariff provisions that set the maximum rates equal to rates being charged to MPC/MGC affiliates. Ignoring the Commission's order, MPC/MGC continued to bill AmerenUE at rates that exceeded the maximum tariffed rates. Moreover, MPC/MGC threatened to disconnect AmerenUE (which would have a severe impact AmerenUE's customers) if it did not continue to pay the higher rates.

MPC/MGC also initiated and pursued numerous legal proceedings – seeking writs of mandamus at the circuit court and the court of appeals, continuing to resist an earlier injunction action filed by the Commission (Cole County Circuit Court Case No. 06AC-CC00630-01), and asserting that their conditional FERC certificate rendered enforcement of the Commission's order in Case No. GC-2006-0491 unlawful. If MPC/MGC had prevailed on any of these pieces of litigation, the Commission's order would have been unenforceable and would not have supported an overcharge lawsuit.

In the face of invoices at the higher rates, the threat of disconnection (in the Winter, when disconnection could have deprived AmerenUE's customers of heat for their homes), and several uncertain pieces of litigation, the Company had three options. First, AmerenUE could pay an amount corresponding to the maximum rates outlined in the Commission's order in Case No. GC-2006-0491 and risk disconnection; second, AmerenUE could pay the full amount of the invoices under protest and later file suit to obtain refunds for amounts paid above the maximum rates; or third, AmerenUE could seek an injunction to prohibit MPC/MGC from disconnecting service and if successful, could have then paid only the lower rates. AmerenUE could not risk disconnection, particularly in the Winter, and given its size and financial resources vis-à-vis the sums at issue, and the fact that this was essentially a dispute about money – about damages – for which injunctions seldom lie -- believed it was unlikely to prevail in a request for an injunction. Given these circumstances, AmerenUE chose the second option and paid the invoices under protest. This avoided the risk of disconnection and also allowed several pieces of the litigation to reach conclusion.

AmerenUE believes it made the correct choice, not only because it avoided the threatened disconnection, but also because it now finds itself with much greater legal clarity in pursuing refunds of the overcharges. In October, 2008, the Circuit Court of Cole County ruled against MPC/MGC in their Writ of Review case and affirmed the Commission's decision in Case No. GC-2006-0491. This increases the likelihood that the Company will prevail in an overcharge lawsuit and will blunt the argument MPC/MGC would likely have made; that is, that any overcharge lawsuit should be held in abeyance until the Writ of Review case is concluded. Also in October 2008, the Western District Court of Appeals (in the Commission's prior injunction suit) ruled that MPC/MGC remained subject to the Commission's jurisdiction until the final issuance of their FERC certificate. This too bolsters AmerenUE's ability to obtain refunds in an overcharge lawsuit without having to litigate jurisdictional arguments made by MPC/MGC. MPC/MGC is now left with only the Western District Court of Appeals case to use as an argument for a delay, an argument that carries much less weight now that the circuit court has already affirmed the Commission and given that the Western District has already resolved the jurisdictional issues. In summary, an overcharge lawsuit can now be filed that should be much simpler and straightforward (and hopefully less costly) than such a lawsuit filed in the midst of multiple, uncertain circuit court, appellate court and FERC proceedings.

The Company intends to file such an overcharge action in the future, and will diligently prosecute that lawsuit in an effort to obtain a refund of those amounts that were paid above the maximum rates allowed by the tariffs. This will include sums within this ACA period involved in this case as well as the overcharges for amounts paid prior to the Commission's order. Indeed, the Company has never indicated otherwise to the Commission or to its Staff. The Company certainly hopes that Staff's recommendation to hold this case open does not portend of any belief by Staff that AmerenUE has done anything less than cooperate fully with Staff during its investigation of MPC/MGC, during the course of Case No. GC-2006-0491 or, for that matter, at anytime after that case was closed.

5. Staff's Memorandum next analyzed AmerenUE's revised demand studies for the different portions of the Company's service territory. For the Columbia region (served by PEPL and MoGas Pipeline LLC (MoGas)), Staff notes that the Company has experienced growth in this area and, as one would expect, its peak day demand estimate increased as well. Staff notes that the reserve margin for the 2007/2008 winter was

[redacted] and indicated it will continue to monitor the Company's capacity for this service area.

AmerenUE shares Staff's concern, but believes that the customer growth rate will be less than the **[redacted]** it projected in its latest (2007) demand study, especially given current economic conditions. AmerenUE believes it can serve this portion of its service territory with its current capacity for the 2008/2009 winter. The Company will continue to review the customer growth on this portion of its system and determine what additional steps, if any, may be necessary to ensure reliable service for its customers.

6. For the Cape Girardeau region (served by TETCO), Staff's concern is just the opposite. Staff does not make a recommendation for any type of disallowance, but makes "comments" about three justifications provided by AmerenUE for its increased reserve margin; AmerenUE's propane peaking plant, its peak day volume uncertainties and the uncertainty in its growth projections for the next five years.

In 2006, AmerenUE refurbished and upgraded its propane peaking plant. This plant provides an important component of the Company's ability to serve peak demand. It does have some limitations, such as the fact that it takes 24 hours for the plant to produce its full capacity and it is reliant upon adequate flows from TETCO to maintain the proper blend of propane air mixture. Despite these limitations, AmerenUE believes the plant is an important component of its ability to provide peak day service. Staff recommended that AmerenUE be required to forward any changes in this portion of its demand study to Staff whenever a "draft" is available. If AmerenUE updates its demand study, for any reason, it will of course provide a copy of the updated study to Staff.

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However, the Company does not believe it appropriate to send Staff draft changes to its study.

The second comment from Staff deals with peak day volume uncertainty and Staff asks that AmerenUE update its demand study and provide the results by February of 2009. AmerenUE agrees to provide an updated demand study and to carefully review this issue as part of that update, but believes that the February 2009 date is too early of a deadline and requests the Commission allow it until May 29, 2009, to provide the final study to Staff.

Finally, Staff comments that AmerenUE should update its growth estimates and consider whether it would be better to use a range of growth factors rather than just a single number. Staff also asks that AmerenUE provide an updated regression analysis for this region, including data through the 2007/2008 winter. Ameren UE agrees to provide this information as part of its updated demand study, but asks that it be allowed through May 29, 2009 to complete this work. This later date will also allow the Company to incorporate data from the 2008/2009 winter season.

As a general response to Staff's concern about the reserve margin for this system, AmerenUE admits that the changed demand profile in Cape Girardeau has resulted in a high reserve margin for this portion of its service territory. This is something that is under review by AmerenUE as part of the routine management of its natural gas utility. The Company is looking at multiple options, which include continued testing of its propane peaking plant to confirm the deliverability presumed in AmerenUE's demand study is accurate and the possibility of releasing some of the firm capacity or storage it holds on this system. No decision has been made and it would be premature to make a decision until further analysis has been completed.

AmerenUE would point out that the changing load profile in this area, coupled with the limitation on TETCO pipeline capacity, have long provided a dilemma for the Company. In 2007, this Commission opened a docket, Case No. GW-2007-0397, prompted by concerns over inadequate pipeline capacity in the State of Missouri. No order or direction has been issued in that case, but at least one Commissioner expressed concern that pipeline capacity issues may negatively impact economic development in Missouri. Once AmerenUE turns back firm capacity to TETCO, it might not be able to purchase it back, so careful consideration must be given before any capacity is turned back.

In AmerenUE's last natural gas rate case, the Commission approved language in the Company's tariffs to recognize that the addition of a new customer with annual load over 40,000 Ccf might pose a problem for AmerenUE to serve, given the TETCO pipeline has historically been fully subscribed. Since the approval of that tariff language, AmerenUE has had a new customer on this portion of its system with a load of that magnitude (the customer switched from propane to natural gas). Because of the Company's reserve margin, there was no problem serving this customer. If AmerenUE did not have the additional capacity for this portion of its system, it would likely have been unable to serve this customer. It is difficult to determine exactly how much reserve margin should be carried and it depends on a great number of variables, all of which cannot be captured simply by evaluating a percentage contained in a demand study.

7. Staff next discusses the Marble Hill Region of AmerenUE's system (served by Natural Gas Pipeline Company of America (NGPL)). Staff recommends that AmerenUE contact the schools and gauge interest in obtaining their gas supplies from the Company prior to AmerenUE locking in contract volumes, in an attempt to avoid over-contracting for supply in this area. AmerenUE agrees to implement this recommendation, but does not want to mislead the Commission – this may not prevent the recurrence of the situation. AmerenUE faces this situation because the storage field in question is owned by the NGPL and a small portion of the field is leased to AmerenUE. The Company uses the storage field in providing winter service for approximately 2,000 customers. The Company's storage plan calls for it to be filled to 97.2% of its capacity by the end of October. In this instance, it was filled to 100% of its capacity. The difference, 2.8%, is the basis for Staff's concern.

Operational needs drive the decision to deviate slightly from the AmerenUE storage plan. In this case, the deviation may have occurred because no school took gas from AmerenUE. Next winter, it could be that the overall demand experienced in this portion of AmerenUE's service area is lower than expected. Either way, the decrease in demand will leave the Company with two options – to sell the excess gas or place it in storage. AmerenUE historically has decided to place any excess in storage. However, if demand is also low during the fall season, AmerenUE will have no choice but to sell excess gas (because its storage will be full). The decision to fill or not to fill the remaining 2.8% of storage is a case-by-case adjustment to the Company's operating plans best left to the Company to make after it has assessed expected demand and market conditions at the time the decision has to be made. The Company believes these sales are a result of prudent decision making by the Company when the expected levels of demand does not materialize. Given the very small amounts of gas in question, it does not make sense for AmerenUE to change the manner in which it has chosen to resolve these situations.

Finally, AmerenUE would point out to the Commission and its Staff that the ability of a natural gas utility to sell gas back into the wholesale market is an important tool for managing the high fluctuations and uncertainty of system loads which are inherent to gas utilities. This should be not viewed as a failure of any type nor as a sign of poor management of natural gas supplies. It is just one more tool in the portfolio of options available to the Company.

8. Staff's memorandum next analyzes AmerenUE's hedging practices. Importantly, Staff recognizes that the goal of AmerenUE's hedging plan is to mitigate the price volatility of natural gas for its customers and it is not a goal of the Company to "beat the market" with this program. Staff made no recommendations in this portion of its analysis.

9. AmerenUE believes its natural gas costs incurred to serve its customers were prudently incurred and should be fully recovered by the Company. AmerenUE will make the accounting adjustment recommended by Staff and will revise its demand study for the Cape Girardeau region and present to Staff by the end of May, 2009.

WHEREFORE, AmerenUE respectfully requests that the Commission accept this *Response* in fulfillment of the Commission's December 15, 2008 *Order Directing Response*.

Respectfully submitted,

UNION ELECTRIC COMPANY,
d/b/a AmerenUE

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Response to Staff's Recommendation was served on the following parties via electronic mail (e-mail) on this 15th day of January, 2009.

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