

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

In the Matter of the Tariff Filing of Union)	<u>Case No. EO-2009-</u>
Electric Company d/b/a AmerenUE to Revise)	Tariff File No. JE-2009-0804
the Provisions of Rider L)	

MOTION TO SUSPEND TARIFF AND MOTION FOR EXPEDITED TREATMENT

COMES NOW the Office of the Public Counsel and for its Motion to Suspend Tariff and Motion for Expedited Treatment states as follows:

1. On May 14, 2009, Union Electric Company d/b/a AmerenUE filed proposed tariff sheets, the stated purpose of which is to:

revise the current Rider L tariff sheets to lower the minimum level of curtailment required to participate in the tariff, revise the hourly offer price to include a capacity component, and make other minor administrative and performance changes.

The tariff sheets bear an effective date of June 13, 2009.

2. On May 18, 2009, Public Counsel submitted approximately 30 data requests seeking information that would allow Public Counsel to assess the cost-effectiveness and other aspects of the proposed new Rider L program. Although AmerenUE objected to a number of the data requests on the grounds that they could be read to seek information about AmerenUE's Illinois affiliates, AmerenUE nonetheless committed to provide answers to all the data requests to the extent they seek information pertinent to AmerenUE. To date, no response to any of the data requests has been received.

3. Public Counsel requests that the Commission suspend the Rider L tariff sheets to allow additional time for investigation, and possibly for a hearing. Public Counsel's initial review of the revised Rider L proposal has revealed a number of questions and problems.

4. The first problem is that the cost-effectiveness analysis that AmerenUE provided to Public Counsel in an attempt to prove cost-effectiveness has an inflated estimate of the market value of capacity. Indeed, the estimate in the Rider L analysis is much higher than AmerenUE's estimates of the market value of capacity over the next few years. Furthermore, AmerenUE has not explained why it believes that a demand response program that relies entirely on voluntary participation in curtailment events can be said to contribute any value for avoided capacity costs. The cost/benefit analysis attributes a very significant annual amount in avoided capacity costs to the new Rider L program, but AmerenUE has not explained how it can either avoid this amount in capacity costs or enhance its capacity sales revenues by this amount as a result of customers participating in this program.

5. Second, the proposed Rider L program does not comply with the MISO¹ Module E requirements for demand resources to qualify as a Load Modifying Resource so the Rider L program will not create additional Demand Resources that are recognized by MISO for resource adequacy purposes. AmerenUE has not explained why it is appropriate to pay participating customers for avoided capacity costs when AmerenUE will not be able to recognize any capacity value from the program.

6. Third, AmerenUE's only other significant demand response program for large customers, the IDR program, is no longer active and it is unclear how the Rider L program would fit into a broader portfolio of demand response programs for AmerenUE's large customers. In fact, it is unclear whether AmerenUE has considered a broader portfolio at all. The proposed Rider L program is different from the large customer demand response programs contained in the DSM implementation plan in AmerenUE's most recent IRP filing and

¹ "MISO" is the Midwest Independent System Operator.

AmerenUE has not explained why it is offering this program instead of the large customer demand response programs in that implementation plan. According to that plan, AmerenUE was to offer two different large customer demand response programs by the end of the third quarter in 2008.

7. Fourth, the Stipulation and Agreement in Case No. ET-2007-0459 included the requirement for AmerenUE to “file a new IDR replacement tariff that takes into account (1) the terms and criteria of Module E provisions regarding Demand Resources and (2) expected energy, capacity and/or ancillary services market prices in the MISO region.” AmerenUE has not provided a good explanation for why it is now proposing the new Rider L program when it has not yet made the new IDR replacement tariff filing specified in the Stipulation and Agreement in Case No. ET-2007-0459.

8. Fifth, the proposed tariff contains an eligibility criterion that appears to unnecessarily restrict participation, and which conflicts with the Truly Agreed and Finally Passed version of Senate Bill 376. AmerenUE would not allow participation in Rider L by “customers who notify the Company of their election to not participate in energy efficiency or demand side programs as permitted by a current or future legislation or rule of the state of Missouri.” Senate Bill 376 states that: “Customers electing not to participate in an electric corporation's demand-side programs under this section shall still be allowed to participate in interruptible or curtailable rate schedules or tariffs offered by the electric corporation.”

9. Sixth, AmerenUE has not presented a proposed evaluation plan for the new Rider L program. The company should not be allowed to proceed with a program where any potential benefits are highly speculative without presenting a plan for evaluating the impacts (energy and capacity) and cost effectiveness of the program.

10. Seventh, proposed tariff sheet 116.1 provides that: “Hourly prices quoted for both day-ahead and same day curtailments will be determined by the Company based on a representative MISO day-ahead or same day risk adjusted market energy price per kWh plus a risk adjusted capacity price of at least \$0.308 per kWh.” This language sets a floor price for capacity, but there is no ceiling. The lack of any cap is especially troubling in light of Public Counsel’s concerns discussed above that there may be very little or no capacity value from the Rider L program. Furthermore, the references to “representative” or “risk adjusted” energy prices are vague and ambiguous.

11. Public Counsel requests expedited treatment. Pursuant to 4 CSR 240-2.080(16), Public Counsel states that it seeks Commission action prior to the tariff effective date of June 13, 2009. The harm that will be avoided by expedited action is that the Rider L tariff will not take effect without a thorough review to determine whether it is in the public interest. This filing could have been made sooner, but Public Counsel had hoped to incorporate information from responses to at least some of the data requests. This motion is being filed at the end of the day on June 8 so that the Commission will have time to review it and act on it at the June 10 Agenda meeting. Commission rule 4 CSR 240-2.090(2), together with Commission rule 4 CSR 240-2.050, requires AmerenUE to provide responses to all the data requests at the very latest on Monday June 8. As of 3:30 on June 8, not a single bit of information in response to any of the 29 data requests has been provided. This motion could have been more precise and specific about the concerns raised herein if some responses had been provided before the drop-dead date, and Public Counsel believed that the benefit from a more well-informed motion to suspend would have outweighed the burden on the Commission of a request to act expeditiously.

WHEREFORE, Public Counsel respectfully requests that the Commission suspend Tariff File No. JE-2009-0804 to allow for further review.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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