

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

In the matter of the Application of Union	)	
Electric Company (d/b/a AmerenUE) for an	)	
Order Authorizing It to Withdraw from the	)	Case No. EO-2001-684
Midwest ISO to Participate in the Alliance RTO	)	

**UE'S RESPONSE TO THE COMMISSION'S ORDER  
DIRECTING FILING**

COMES NOW Union Electric Company d/b/a AmerenUE ("Company" or "UE") pursuant to 4 CSR 240-2.080, and for its response to the Commission's September 5, 2002 "Order Directing Filing" respectfully states the following:

**Background**

On June 11, 2001, UE filed an application with the Commission specifically requesting an Order authorizing it to withdraw from the Midwest ISO to participate in the Alliance RTO, which initiated this proceeding.

On December 20, 2001, in an order issued by the Federal Energy Regulatory Commission ("FERC") in Docket Nos. RT01-88-000 et al., FERC denied the establishment of the Alliance RTO as a stand-alone RTO.

Consequently, on May 24, 2002, after a flurry of FERC activity, Ameren Services Company, as agent for Union Electric Company, d/b/a AmerenUE and Central Illinois Public Service Company, d/b/a AmerenCIPS (collectively "Ameren"), and the Midwest Independent System Operator, Inc. ("MISO") entered into a memorandum of understanding ("MOU") that provided for Ameren's return to the MISO in accordance with the terms and conditions of the

MOU. The MOU required Ameren to apply for membership in the MISO within thirty days of execution of the MOU. Moreover, on May 28, 2002, Ameren made a filing at FERC advising FERC that Ameren will join the MISO.

On July 3, 2002, Ameren along with FirstEnergy Corp. ("FirstEnergy"), on behalf of its subsidiary American Transmission Systems, Incorporated, Northern Indiana Public Service Company ("NIPSCO"), and National Grid USA ("National Grid") filed a number of agreements with FERC indicating their intent to form the GridAmerica independent transmission company. Once GridAmerica is formed, GridAmerica will participate in and operate under the Midwest ISO - RTO in accordance with Appendix I of the Midwest ISO Agreement.

#### **Staff's First Response**

On July 22, 2002, the Staff of the Missouri Public Service Commission filed a Response to UE's Motion to Dismiss ("First Response") in this proceeding. In its First Response, the Staff "agrees that ... the issue regarding whether UE should be permitted to withdraw from the MISO is now moot..." Staff First Response at p. 3. However, even though the Staff agrees UE's application is now moot, the Staff goes on to request that "the Commission ... deny UE's Motion to Dismiss and instead direct the Company to file testimony in support of its decision to rejoin the MISO as part of GridAmerica." Staff First Response at p. 4.

#### **Company's Response to Staff's Response**

On July 30, 2002, UE filed its response to the Staff's July 22, 2002 response ("UE's First Response"). In UE's First Response, UE reiterated its position that the Commission should dismiss this proceeding. In support thereof the Company stated that "[s]ince UE no longer *desires* to withdraw from the MISO, there is no need for the Commission to rule at all in this

proceeding. Accordingly, the Commission should unconditionally grant UE's motion to dismiss." (emphasis added) See UE's First Response at pp. 2-3.

### **Staff's August 2, 2002 Response to UE's First Response**

On August 2, 2002, the Staff filed a Response to UE's July 30, 2002 Response ("Staff's Second Response"). The Staff indicated in the Staff's Second Response that it was "perplexed as to why UE's [First Response] makes no mention of Ameren Services' July 25, 2002 motion, which was filed with the FERC just five days earlier and which suggests that UE may ultimately withdraw its intention to rejoin the MISO." (See Staff's Second Response at p. 4) In support of Staff's concern, the Staff quotes two statements contained in a July 25, 2002 motion filed by Ameren Services Company, which the Staff believes contradict UE's assertion that it no longer desires to withdraw from the MISO. Furthermore, in light of the statements made on behalf of UE in the July 25, 2002 motion, the Staff urges the Commission not to dismiss the instant case for mootness at this time.

### **Commission Order Directing Filing**

On September 5, 2002, in response to the Staff's Second Response, the Commission ordered UE to file a response to the issues raised by the Staff. More specifically, in the Order, the Commission requests that UE reconcile the statements made on its behalf in the July 25 motion with the statements made in its filings with this Commission.

### **UE's Second Response**

Given the statements made on behalf of UE in the July 25, 2002 motion at FERC ("July 25 Motion"), the Company certainly understands why the Staff and the Commission would be uncertain about the Company's future RTO participation. Hopefully the agreements

made by UE in this response will help allay the Staff's concerns and those of the Commission and thereby allow the Commission to grant UE's motion to dismiss this case.

In the Company's motion to dismiss this proceeding, the Company provided the Commission with copies of agreements filed with FERC that undeniably codify UE's intent and desire to participate in the MISO through the formation of the GridAmerica independent transmission company. The Company's intent and desire to participate in the MISO in this manner have not changed.

At the time UE filed these agreements with FERC, it remained unclear how FERC would react to the proposed RTO elections of Commonwealth Edison ("ComEd") and Illinois Power ("IP") to participate in the PJM RTO ("PJM"). Quite frankly, given the underlying message in previous FERC orders, the Company did not think FERC would permit ComEd and IP to participate in an RTO other than the MISO. However, after several open meetings at FERC, it became clear that FERC was not going to reject the elections of ComEd and IP to join PJM. This was extremely troubling to the Ameren Corporation. It was troubling to the Ameren Corporation for a number of reasons including the significant adverse impact the RTO seam would have on its ability to effectively compete in the competitive retail market in Illinois.

As a result, Ameren filed the July 25 Motion with FERC to make sure the FERC understood the gravity of unconditionally approving the RTO elections made by ComEd and IP. As is clearly indicated throughout the July 25 Motion, one of its primary objectives was to encourage FERC to properly condition the participation of ComEd and IP in PJM on the mitigation of the inter-RTO transmission pricing issue that would be created by their election. Ameren also wanted FERC to know that in the absence of such a conditioned approval, Ameren would be "forced" to consider each of its other options including, but not limited to, withdrawing

[its] intention to join the Midwest ISO." (emphasis added) (See July 25 Motion at p. 3.) By Ameren failing to participate in the MISO, the transmission systems operated by MISO would be once again electrically bifurcated, thereby hindering MISO's capability to effectively operate as an RTO. Fortunately, FERC properly responded to Ameren's July 25 Motion and the motions of others by conditioning the RTO elections of ComEd and IP on the resolution of the inter-RTO transmission pricing seams issue. (See generally "Order Conditionally Accepting Compliance Filings, Providing Guidance on Midwest ISO and PJM Structure, And Instituting Section 206 Investigation" attached hereto as Schedule 1.)

As a result of FERC conditioning its approval of the RTO elections made by ComEd and IP on mitigation of the inter-RTO transmission pricing issue, the Company can affirmatively state that its intentions and desires for participating in the MISO to date remain unchanged. The Company continues to remain focused on participating in the MISO through the formation of the GridAmerica independent transmission company.

#### **Revised Motion to Dismiss**

To provide assurance to the Commission that dismissal of the instant proceeding will not in any way act as authorization to the Company to refrain from participating in an RTO or act as authorization to participate in an RTO other than the MISO, and to provide further evidence of the Company's continued desire to participate in MISO ((either directly or as a participant of GridAmerica<sup>1</sup>) (hereinafter the word "MISO" shall be assumed to include the previous parenthetical)), the Company hereby agrees to the following:

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<sup>1</sup> GridAmerica is the current name of the independent transmission company in which the Company intends to participate. The name and/or membership of the independent transmission company in which the company intends to participate under the MISO may change.

- 1) the Company will continue pursuing its participation in the MISO, and upon receipt of all regulatory approvals that are in the Company's opinion satisfactory, the Company shall transfer functional control of its transmission system in accordance with such regulatory approvals; or
- 2) if all regulatory approvals to participate in the MISO are not, in the Company's opinion, satisfactorily received, which causes the Company to actively pursue participation in a different RTO, the Company shall file a pleading with this Commission requesting authorization from this Commission to participate in such other RTO prior to or concurrent with any future filing requesting similar authorization from FERC; and
- 3) in the event the Company obtains approval from FERC to participate in such other RTO prior to a decision of this Commission, the Company shall condition its participation in such other RTO on the receipt of all regulatory approvals, including the approval of this Commission; and
- 4) that in the "Ordered" section of the Commission's dismissal of this case, in addition to the aforementioned conditions, the Commission may include the language stated in paragraph 7 of the Staff's First Response.

**WHEREFORE**, the Company hereby provides this response as directed by the Commission in its September 5, 2002 Order Directing Filing and hereby renews its request to dismiss this case based upon the agreements made by the Company herein.

Respectfully submitted,

UNION ELECTRIC COMPANY  
d/b/a AmerenUE

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Dated: September 10, 2002

## **CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing document were sent U.S. Mail, postage prepaid, to the following parties of record on this 10<sup>th</sup> day of September, 2002:

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