

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

In The Matter of The Empire District	)	
Electric Company's Application for Variance	)	
And Clarification Concerning Select	)	<b><u>Case No. EE-2010-0243</u></b>
Provisions of Commission Rules Related to	)	
Electric Utility Resource Planning	)	

**PUBLIC COUNSEL'S RESPONSE TO  
MOTION TO ESTABLISH A PROCEEDING AND REQUEST FOR WAIVERS**

COMES NOW the Office of the Public Counsel for its response to the Motion to Establish a Proceeding and Request for Waivers filed February 24, 2010, by Union Electric Company, d/b/a AmerenUE states as follows:

1. On February 24, 2010, AmerenUE filed a Motion to Establish a Proceeding and Request for Waivers. On March 1, the Commission issued its Order Providing Notice, Establishing Intervention Deadline, and Directing Response which set March 31 as the deadline for responses. Public Counsel files this response pursuant to that order.

2. Public Counsel would not oppose the requested waivers so long as the AmerenUE's proposed waiver language for calculating avoided costs for DSM screening purposes in 4 CSR 240-22.050(2) is supplemented and clarified as discussed herein. The specific changes recommended by Public Counsel are shown in Attachment 1 hereto.

3. Public Counsel believes that the proposed changes are necessary to fully describe and clarify the alternative avoided cost methodology that AmerenUE is proposing as an alternative to the requirements in 4 CSR 240-22.050(2). It is Public Counsel's understanding that AmerenUE intends to use generally the same method for calculating avoided capacity costs in its 2011 Integrated Resource Plan (IRP) filing as it used in its 2008 IRP filing. In the 2008 IRP filing, AmerenUE used linear interpolation to determine the avoided capacity cost values in the years between initial year

estimates of the forward price for regulatory capacity and the year in which the load to capacity balance was expected to tighten. In the year that the capacity balance was expected to become constrained, AmerenUE's 2008 IRP filing used to cost of a new combustion turbine unit as a proxy for the market price of capacity from that year forward.

4. AmerenUE's new proposed method for the 2011 filing appears to be generally the same as the method used in the 2008 filing except that: (1) the MISO Cost of New Entry is used instead of AmerenUE's estimate of the cost of a new combustion turbine unit; and (2) the year in which the load to capacity balance was expected to tighten has been moved to a later year. Public Counsel's proposed revisions to the waiver request language will provide a greater level of clarity and transparency that will help reduce the likelihood of future disagreements between AmerenUE and stakeholders over the meaning of alternative to the rule requirements that have been approved by the Commission.

WHEREFORE, Public Counsel respectfully requests that the Commission modify AmerenUE's requested waiver as discussed herein.

Respectfully submitted,

OFFICE OF THE Public Counsel

**/s/ Lewis R. Mills, Jr.**

By: \_\_\_\_\_  
Lewis R. Mills, Jr. (#35275)  
Public Counsel  
P O Box 2230  
Jefferson City, MO 65102  
(573) 751-1304  
(573) 751-5562 FAX  
[lewis.mills@ded.mo.gov](mailto:lewis.mills@ded.mo.gov)

### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been emailed to parties of record this 31st day of March 2010.

General Counsel Office  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
GenCounsel@psc.mo.gov

Dottheim Steve  
Missouri Public Service Commission  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
Steve.Dottheim@psc.mo.gov

Henry G Kathleen  
Mid-Missouri Peaceworks  
705 Olive Street, Suite 614  
St. Louis, MO 63101  
khenry@greatriverslaw.org

Robertson B Henry  
Mid-Missouri Peaceworks  
705 Olive Street, Suite 614  
St. Louis, MO 63101  
hrobertson@greatriverslaw.org

Henry G Kathleen  
Natural Resources Defense Council  
705 Olive Street, Suite 614  
St. Louis, MO 63101  
khenry@greatriverslaw.org

Morrison A Bruce  
Natural Resources Defense Council  
705 Olive Street, Suite 614  
St. Louis, MO 63101  
bamorrison@greatriverslaw.org

Robertson B Henry  
Natural Resources Defense Council  
705 Olive Street, Suite 614  
St. Louis, MO 63101  
hrobertson@greatriverslaw.org

Henry G Kathleen  
Sierra Club  
705 Olive Street, Suite 614  
St. Louis, MO 63101  
khenry@greatriverslaw.org

Morrison A Bruce  
Sierra Club  
705 Olive Street, Suite 614  
St. Louis, MO 63101  
bamorrison@greatriverslaw.org

Sullivan R Steven  
Union Electric Company  
1901 Chouteau Avenue  
P.O. Box 66149 (MC 1300)  
St. Louis, MO 63166-6149  
AmerenUEService@ameren.com

Tatro Wendy  
Union Electric Company  
1901 Chouteau Avenue  
St. Louis, MO 63166-6149  
AmerenUEService@ameren.com

Morrison A Bruce  
Mid-Missouri Peaceworks  
705 Olive Street, Suite 614  
St. Louis, MO 63101  
bamorrison@greatriverslaw.org

**/s/ Lewis R. Mills, Jr.**

---

**Public Counsel's Recommended Changes to  
AmerenUE's Waiver Request Language for 4 CSR 240-22.050 (2)**

**(1) 4 CSR 240-22.050 (2)**

**Current requirement:**

Section 4 CSR 240-22.050(2) in its entirety specifies the required methods for calculating and allocating avoided costs.

**Proposed Alternative:**

As an alternative to the procedure outlined in subsections (A) – (D), AmerenUE will use a forecast of the market price of energy as avoided energy costs and use both (1) AmerenUE's forward view of the market for regulatory capacity in the first two or three years of the planning horizon and (2) MISO's Cost of New Entry (CONE) estimate as thea bases basis for the avoided capacity costs. Values for the avoided cost of capacity in each year will be calculated by using AmerenUE's forward view of the market value of regulatory capacity in the initial two or three years and then using the CONE value beginning in the year when the MISO region is expected to become capacity constrained and new capacity must be built in the MISO region. Values for the avoided cost of capacity in the interval between the initial years and the year when the MISO region is expected to become capacity constrained will be estimated through linear interpolation. AmerenUE shall adjust the market price of energy to account for probable environmental costs pursuant to 4 CSR 240-22.040(2)(B). AmerenUE shall include an estimate of avoided transmission and distribution costs.

In addition, AmerenUE shall describe its method for (1) grouping hourly forecasted prices into avoided cost periods to reflect significant differences in the seasonal and/or hourly variation in prices, and (2) for allocating ~~regulatory~~ capacity costs to these periods, and (3) a description of the assumptions and procedures used for avoided capacity costs including AmerenUE's forward view of the market price of regulatory capacity, the MISO CONE, the development of avoided cost estimates for transmission and distribution facilities.