

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

In the Matter of Union Electric Company d/b/a)	
Ameren Missouri's 2 nd Filing to Implement)	File No. EO-2015-0055
Regulatory Changes in Furtherance of Energy)	
Efficiency as Allowed by MEEIA)	

**UFM OBJECTION TO AMENDED NON-UNANIMOUS STIPULATION AND
AGREEMENT**

COMES NOW United for Missouri, Inc. (“UFM”), by and through its counsel, pursuant to Commission Rule 4 CSR 240-2.115(2)(B) and files its objection to the Amended Non-Unanimous Stipulation and Agreement (“Amended Non-Unanimous Stipulation”) filed on July 8, 2015 by the Staff of the Missouri Public Service Commission (“Staff”), the Office of the Public Counsel (“OPC”), the Midwest Energy Consumers’ Group (“MECG”), the Missouri Industrial Energy Consumers (“MIEC”), and Earth Island Institute d/b/a Renew Missouri (“Renew Missouri”) (collectively the “Signatories”). In support of its objection, UFM states:

1. Commission Rule 4 CSR 240-2.115(2)(D) requires that, “A non-unanimous stipulation and agreement to which a timely objection has been filed shall be considered to be merely a position of the signatory parties to the stipulated position, except that no party shall be bound by it. All issues shall remain for determination after hearing.”

2. The Missouri Public Service Commission (“Commission”) has no authority to adopt the Amended Non-Unanimous Stipulation. Section 393.1075.4, RSMo.¹ states in part, “The commission **shall** permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side

¹ Statutory references are the Missouri Revised Statutes (2014).

savings.” (emphasis added) “Demand-side program,” is defined in relevant part as “any program **conducted by the utility** to modify the net consumption of electricity on the retail customer’s side of the electric meter, including”² (emphasis added) The statute requires the Commission to allow an electric corporation to implement such programs as the electric corporation has and proposes to the commission; it does not permit the Commission to require the electrical corporation to implement programs that it does not have or propose. The Amended Non-Unanimous Stipulation proposes a number of programs that Ameren Missouri does not propose. Therefore, it is beyond the Commission’s authority to consider.

3. The Commission has an inadequate record before it to approve the Amended Non-Unanimous Stipulation. Again, the Non-Unanimous Stipulation proposes a number of programs not previously proposed by Ameren Missouri. In order to approve any proposed demand-side programs, the Commission must find that the programs have “a goal of achieving all cost-effective demand-side savings.”³ And to approve cost recovery, it must find that, “the programs “result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed”⁴ With the hearing scheduled for July 20 – 22, there is insufficient time to assess the value of these new proposals and whether they would meet the standards required by MEEIA.

4. Adopting the Amended Non-Unanimous Stipulation would infringe on the power of management of Ameren Missouri. In *State ex rel. Harline v. Pub. Serv. Comm'n.*, 343 S.W.2d 177, 181 (Mo. App. 1960), the Kansas City Court of Appeals explained,

The utility's ownership of its business and property includes the right of control and management, subject, necessarily, to state regulation through the Public Service Commission. The powers of regulation delegated to the Commission are comprehensive and extend to every conceivable source of corporate malfeasance. Those powers do not,

² §393.1075.2(3).

³ §393.1075.4.

⁴ *Id.*

however, clothe the Commission with the general power of management incident to ownership. The utility retains the lawful right to manage its own affairs and conduct its business as it may choose, as long as it performs its legal duty, complies with lawful regulation and does no harm to public welfare.

Adopting the Amended Non-Unanimous Stipulation and ordering Ameren Missouri to make certain filings as described in the Amended Non-Unanimous Stipulation would interfere with Ameren Missouri's "right to manage its own affairs and conduct its business as it may choose" in compliance with the law and with no harm to the public welfare.

WHEREFORE, UFM respectfully files its objection to the Amended Non-Unanimous Stipulation and Agreement as provided by Commission rule.

Respectfully submitted,

By: /s/ David C. Linton

David C. Linton, #32198
314 Romaine Spring View
Fenton, MO 63026
Telephone: 314-341-5769
Email: jdinton@reagan.com

Attorney for United for Missouri, Inc.

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing UFM Objection to Amended Non-Unanimous Stipulation and Agreement was sent to all parties of record via electronic transmission this 9th day of July, 2015.

By: /s/ David C. Linton