

## **MEMORANDUM**

TO: Missouri Public Service Commission Official File No. EO-2012-0158,  
In the Matter of the Application of Union Electric Company d/b/a Ameren  
Missouri for Authority to Exchange SO<sub>2</sub> Emission Allowances for NO<sub>x</sub>  
Emission Allowances

FROM: Stephen M. Rackers, Auditing Unit

/s/ Stephen M. Rackers 12/23/11  
Auditing Unit / Date

/s/ Nathan Williams 12/23/11  
General Counsel's Office / Date

Subject: Staff Recommendation to Grant Requested Authority Subject to Conditions

Date: December 23, 2011

## **OVERVIEW**

On November 22, 2011, Union Electric Company d/b/a Ameren Missouri (Ameren Missouri or Company) filed an Application with the Missouri Public Service Commission seeking authority to:

- 1) engage in a single specific transaction to exchange 1,050 Cross-State Air Pollution Rule ("CSAPR") sulfur dioxide (SO<sub>2</sub>) emission allowances for 500 CSAPR annual nitrogen oxide (NO<sub>x</sub>) emission allowances; and
- 2) defer the revenue associated with the SO<sub>2</sub> emission allowances and amortize the deferral concurrently with the use of the acquired annual NO<sub>x</sub> emission allowances.

In its order dated November 23, 2011 the Commission ordered Staff to file a recommendation regarding its examination and analysis of Ameren Missouri's application and for any other party to file a response to the Application by no later than

December 5, 2011. On December 2, 2011 the Staff requested additional time to complete its examination and analysis and file its recommendation. On December 5, 2011 the Commission granted the Staff an extension until December 20, 2011. On December 20, 2011, having recently received a response to a data request from Ameren Missouri, the Staff requested additional time to December 27, 2011 to complete its examination and analysis and file its recommendation. On December 20, 2011 the Commission granted the Staff an extension until December 27, 2011. No other party has filed a response to Ameren Missouri's application.

### **BACKGROUND**

In the Application Ameren Missouri seeks from the Commission, pursuant to Section 393.190.1 RSMo, and rules 4 CSR 240-2.060 and 4 CSR 240-3.110, authority to exchange SO<sub>2</sub> emission allowances for annual NO<sub>x</sub> emission allowances. These emission allowances, as well as seasonal NO<sub>x</sub> emission allowances, are authorized by the United States Environmental Protection Agency's (EPA) Cross-State Air Pollution Rule, which takes effect January 1, 2012. Ameren Missouri also requests deferral of the revenue associated with the exchanged SO<sub>2</sub> emission allowances to Account 254, Other Regulatory Liabilities and amortization of the deferral concurrently with the use of the annual NO<sub>x</sub> emission allowances it receives in the transaction.

Ameren Missouri states in its Application that it is concerned that its 2012 allocation of annual NO<sub>x</sub> emission allowances may be insufficient to meet the actual level it needs to comply with the CSAPR for 2012. However, Ameren Missouri believes it has SO<sub>2</sub> emission allowances that greatly exceed what it will need for CSAPR compliance in 2012. Ameren Missouri asserts the exchange of SO<sub>2</sub> emission allowances

for annual NO<sub>x</sub> emission allowances it requests the Commission authorize will help the Company to address its 2012 annual NO<sub>x</sub> emissions compliance concerns.

This proposed exchange of SO<sub>2</sub> and annual NO<sub>x</sub> emissions allowances would be a non-cash transaction. SO<sub>2</sub> emission allowances would be exchanged for annual NO<sub>x</sub> emission allowances Ameren Missouri asserts are of an equal value. It is Ameren Missouri's position that its requested accounting treatment of this non-cash transaction will cause the revenue and expenses resulting from the exchange to be treated as offsetting each other and will result in the transaction having no effect on the fuel adjustment clause (FAC).

### **DISCUSSION**

In its Application Ameren Missouri requests a very limited authority for a single specific transaction dealing with a very small portion of the CSAPR emission allowances the EPA has allocated to the Company. Ameren Missouri seeks Commission authority to exchange 1,050 CSAPR SO<sub>2</sub> emissions allowances for 500 CSAPR annual NO<sub>x</sub> emissions allowances citing to section 393.190.1, RSMo. 2000. That statute includes no express standard for reviewing transfers of assets such as the transfer of SO<sub>2</sub> emissions allowances; however, the Commission has used the standard of "not detrimental to the public interest" in considering such requests in the past. In this case, Staff used the standard of "not detrimental to the public interest" to evaluate whether to recommend the Commission approve the proposed transaction.

4 CSR 240-22.080(18) requires:

In all future cases before the commission which involve a requested action that is affected by electric utility resources, preferred resource plan, or resource acquisition strategy, the utility

must certify that the requested action is substantially consistent with the preferred resource plan specified in the most recent triennial compliance filing or annual update report. If the requested action is not substantially consistent with the preferred resource plan, the utility shall provide a detailed explanation.

Ameren Missouri did not provide such certification or detail with its application. However, this limited transaction should not affect Ameren Missouri's resources or change Ameren Missouri's preferred resource plan. However exchanging, swapping, selling, buying or trading larger amounts of allowances may impact Ameren Missouri's resources and its preferred plan. Since this is a recent addition to filing requirements, Staff does not recommend that this application be rejected because Ameren Missouri did not meet this requirement.

Based on Ameren Missouri estimates, the exchange of SO<sub>2</sub> emissions allowances for annual NO<sub>x</sub> emissions allowance would reduce its excess SO<sub>2</sub> allowances by less than 5% while decreasing its estimated need for additional annual NO<sub>x</sub> allowances by approximately 27%. The exact amount of SO<sub>2</sub> and annual NO<sub>x</sub> allowances Ameren Missouri will need for 2012 will not be known until early 2013. In addition, the Staff agrees that the accounting treatment Ameren Missouri seeks will result in this non-cash transaction having no effect on the revenues and expenses flowing through its FAC, *i.e.*, it will neither increase nor decrease Ameren Missouri's FAC charge.

Staff recommends that the Commission conditionally approve Ameren Missouri's application, imposing the following conditions:

- 1) That Commission approval of the transaction and accounting treatment sought in the Application is not determinative of any future ratemaking.

- 2) That Commission approval of the transaction and accounting treatment does not bind anyone from challenging any aspect of the prudence of the transaction.
- 3) That the approval granted is for the limited transfer requested in Ameren Missouri's application.
- 4) That Ameren Missouri shall request authorization from the Commission prior to closing any other transactions to sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber any CSAPR SO<sub>2</sub>, seasonal NO<sub>x</sub>, or annual NO<sub>x</sub> emission allowance(s).

#### **STAFF RECOMMENDATION**

Staff recommends that the Commission grant the authority Ameren Missouri requests in its application, subject to the conditions Staff proposes, and find that the transaction is not detrimental to the public interest per Section 393.190.1 RSMo. Staff has verified that Ameren Missouri has filed its annual report and is not delinquent on any assessment. In addition, the Company has stated that the transaction will have no impact upon the tax revenues of any political subdivision it serves.

**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

In the Matter of the Application of Union )  
Electric Company d/b/a Ameren Missouri for ) File No. EO-2012-0158  
Authority to Exchange SO2 Emissions )  
Allowances for NOx Emissions Allowances )  
)

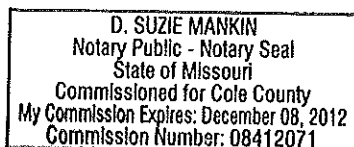
**AFFIDAVIT OF STEPHEN M. RACKERS**

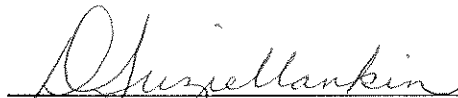
STATE OF MISSOURI )  
) ss.  
COUNTY OF COLE )

STEPHEN M. RACKERS, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Staff Recommendation in memorandum form, to be presented in the above case; that the information in the Staff Recommendation was developed by him; that he has knowledge of the matters set forth in such Staff Recommendation; and that such matters are true and correct to the best of his knowledge and belief.

  
STEPHEN M. RACKERS

Subscribed and sworn to before me this 23<sup>rd</sup> day of December, 2011.



  
Notary Public