

In the Matter of the Application of Union Electric )  
Company d/b/a Ameren Missouri for Authority to ) File No. EO-2012-0158  
Exchange SO<sub>2</sub> Emissions Allowances for NO<sub>x</sub> )  
Emissions Allowances. )

**STAFF'S RECOMMENDATION TO AUTHORIZE TRANSFER OF 1,050 SO<sub>2</sub> EMISSION ALLOWANCES FOR 500 ANNUAL NO<sub>x</sub> EMISSION ALLOWANCES AND REQUESTED ACCOUNTING TREATMENT**

COMES NOW the Staff of the Missouri Public Service Commission and, for its recommendation states:

1. On November 22, 2011, Ameren Missouri filed an application seeking Commission authority to transfer 1,050 Cross-State Air Pollution Rule (“CSAPR”) SO<sub>2</sub> emission allowances in exchange for 500 CSAPR annual NO<sub>x</sub> emission allowances and to defer recognition of the transfer of the SO<sub>2</sub> emission allowances until it uses the annual NO<sub>x</sub> emission allowances it receives in exchange for them, to meet its CSAPR annual NO<sub>x</sub> emission requirements.

2. Section 393.190.1, RSMo. 2000, provides:

No gas corporation, electrical corporation, water corporation or sewer corporation shall hereafter sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, works or system, necessary or useful in the performance of its duties to the public, nor by any means, direct or indirect, merge or consolidate such works or system, or franchises, or any part thereof, with any other corporation, person or public utility, without having first secured from the commission an order authorizing it so to do. Every such sale, assignment, lease, transfer, mortgage, disposition, encumbrance, merger or consolidation made other than in accordance with the order of the commission authorizing same shall be void. The permission and approval of the commission to the exercise of a franchise or permit under this chapter, or the sale, assignment, lease, transfer, mortgage or other disposition or encumbrance of a franchise or permit under this section shall not be construed to revive or validate any lapsed or invalid franchise or permit, or to enlarge or add to the powers or privileges contained in the grant of any franchise or permit, or to waive any forfeiture. Any

person seeking any order under this subsection authorizing the sale, assignment, lease, transfer, merger, consolidation or other disposition, direct or indirect, of any gas corporation, electrical corporation, water corporation, or sewer corporation, shall, at the time of application for any such order, file with the commission a statement, in such form, manner and detail as the commission shall require, as to what, if any, impact such sale, assignment, lease, transfer, merger, consolidation, or other disposition will have on the tax revenues of the political subdivisions in which any structures, facilities or equipment of the corporations involved in such disposition are located. The commission shall send a copy of all information obtained by it as to what, if any, impact such sale, assignment, lease, transfer, merger, consolidation or other disposition will have on the tax revenues of various political subdivisions to the county clerk of each county in which any portion of a political subdivision which will be affected by such disposition is located. Nothing in this subsection contained shall be construed to prevent the sale, assignment, lease or other disposition by any corporation, person or public utility of a class designated in this subsection of property which is not necessary or useful in the performance of its duties to the public, and any sale of its property by such corporation, person or public utility shall be conclusively presumed to have been of property which is not useful or necessary in the performance of its duties to the public, as to any purchaser of such property in good faith for value.

Lacking an express standard, the Staff applied the standard of “not detrimental to the public interest” in evaluating Ameren Missouri’s request, the standard the Commission has used in reviewing transactions under this statute. See *e.g. Report and Order from In the Matter of the Application of Aquila, Inc. for Authority to Assign, Transfer, Mortgage or Encumber Its Utility Franchise, Works or System in Order to Secure Revised Bank Financing Arrangements*, Case No. EF-2003-0465, 12 Mo.P.S.C. 3d 375 (Decided February 24, 2004).

3. In the attached Memorandum (Appendix A), the Staff, based on the representations of Ameren Missouri stated in Appendix A and applying the “not detrimental to the public interest” standard, recommends that the Commission issue an Order that authorizes Ameren Missouri, subject to the conditions stated there and restated following, to transfer 1,050 Cross-State Air Pollution Rule (“CSAPR”) SO<sub>2</sub> emission allowances in exchange for 500 CSAPR annual NO<sub>x</sub> emission allowances and to defer recognition of the transfer of the SO<sub>2</sub>

emission allowances until it uses the annual NO<sub>x</sub> emission allowances it receives in exchange for them to meet its CSAPR annual NO<sub>x</sub> emission requirements. Those conditions are:

- a) That Commission approval of the transaction and accounting treatment sought in the Application is not determinative of any future ratemaking.
- b) That Commission approval of the transaction and accounting treatment does not bind anyone from challenging any aspect of the prudence of the transaction.
- c) That the approval granted is for the limited transfer requested in Ameren Missouri's application.
- d) 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).

4. 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.

**WHEREFORE**, Staff recommends the Commission, subject to the conditions stated and referenced above, grant Ameren Missouri the relief it has requested in its application.

Respectfully submitted,

/s/ Nathan Williams

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 23<sup>rd</sup> day of December, 2011.

/s/ Nathan Williams