BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Union Electric Company d/b/a)	
Ameren Missouri's Filing to Implement Regulatory)	File No. EO-2012-0142
Changes in Furtherance of Energy Efficiency)	
as Allowed by MEEIA)	

ORDER ACCEPTING PUBLIC COUNSEL'S AMENDED CORRECTIONS TO TESTIMONY AND CORRECTED COVER PLEADING

Issue Date: January 27, 2015 Effective Date: January 27, 2015

This order addresses several attempts by the Office of Public Counsel to offer corrections to the prefiled testimony of its witness, Dr. Geoff Marke. Initially, on December 31, 2014, Public Counsel filed a motion asking the Commission to accept corrected versions of the prefiled direct, rebuttal, and surrebuttal testimony of Dr. Marke. That motion explained that the changes in the testimony were necessary to correct a calculation that Dr. Marke made based on an incorrect assumption about one aspect of the evaluator and auditor reports that are being considered in this proceeding. Thereafter, on January 12, 2015, Public Counsel filed a motion asking the Commission to accept amended corrections to that same testimony. Finally, on January 14, Public Counsel filed a motion asking the Commission to accept changes to its January 12 motion to correct three errors in the description of the changes that Public Counsel made in the revised testimony that accompanied that motion.

On January 16, the Commission's Staff and Ameren Missouri filed separate responses to Public Counsel's motions. Staff is confused about the changes to Dr. Marke's testimony and is concerned that the changes are an improper supplementation of that testimony rather than a mere correction of errors. For that reason, Staff urges the Commission to not accept the corrected testimony. Ameren Missouri is also uncertain

about the changes proposed by Public Counsel and is concerned that the revisions are supplemental rather than merely corrections. Rather than reject the revised testimony, Ameren Missouri urges the Commission to take the proposed corrections under advisement and delay ruling on the admission of the corrected testimony until Dr. Marke has been cross-examined at the hearing. Public Counsel replied to both Staff and Ameren Missouri on January 26.

There has certainly been a great deal of confusion among the parties about the proposed corrections to the content of the prefiled testimony of Dr. Marke. Similarly, there is confusion about the status of the proposed corrections to that testimony and about what the Commission can do in response to Public Counsel's motions.

The motions ask the Commission to "accept" the proposed corrections. What does it mean for the Commission to "accept" the corrections? In this context, "accepting" the corrections has little, if any meaning. Clearly, "accepting" the corrected testimony does not mean that that the corrected testimony has been admitted into evidence. Public Counsel has not yet offered that testimony into evidence and the Commission will not rule on its admissibility until it is offered into evidence at the upcoming hearing. Similarly, the Commission cannot rule on the appropriateness of the corrections to that testimony until the testimony has been offered into evidence. At most, "accepting" the testimony means the Commission finds that the testimony can be filled in EFIS, and it is not clear that the Commission even needs to make such a finding as the parties are free to make fillings in EFIS as they wish.

That Public Counsel's motions may have little practical effect is not a criticism of Public Counsel's decision to file the motions. On the contrary, filing the motions and the corrected testimony as early as possible before the start of the evidentiary hearing brings

the corrections to the immediate attention of the other parties and allows the Commission to give the matter its informed consideration when the testimony is actually offered into evidence at the hearing.

The Commission will accept the revised testimony and accompanying motions. Any questions about the admissibility of that testimony, including the appropriateness of the corrections to that testimony, will be addressed when that testimony is offered into evidence at the evidentiary hearing.

THE COMMISSION ORDERS THAT:

- Public Counsel's Amended Corrections to Dr. Geoff Marke's Prefiled Direct,
 Rebuttal, and Surrebuttal Testimony are accepted.
 - 2. Public Counsel's Motion to Correct Cover Pleading is accepted.
 - This order shall be effective when issued.

BY THE COMMISSION

ON OF THE OF THE

Morris L. Woodruff Secretary

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Morris L. Woodruff, Chief Regulatory Law Judge, by delegation of authority pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri, on this 27th day of January, 2015.