

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY**

July 26, 2001

CASE NO: EO-2000-580

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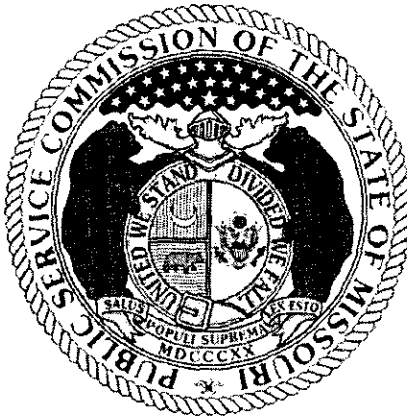
Enclosed find certified copy of a REPORT and ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

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



In the Matter of an Investigation)
into an Alternative Rate Option for)
Interruptible Customers of Union)
Electric Company d/b/a AmerenUE)

Case No. EO-2000-580

REPORT AND ORDER

Issue Date: July 26, 2001

Effective Date: August 5, 2001

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of an Investigation)
into an Alternative Rate Option for)
Interruptible Customers of Union)
Electric Company d/b/a AmerenUE) **Case No. EO-2000-580**

Deputy Chief Regulatory Law Judge: Lewis Mills

REPORT AND ORDER

Statement of the Case

Pursuant to agreement in an earlier Commission case, Union Electric Company d/b/a AmerenUE (Ameren) discontinued an electricity rate that allowed large industrial customers a discount if they were willing to curtail usage as required. Three customers that took advantage of the now-discontinued rate have asked the Commission to require Ameren to put in place a very similar discounted rate. Ameren and the Commission's Staff oppose the customers' request. The Commission holds that requiring Ameren to implement the customers' proposal is not in the public interest.

Findings of Fact

The Missouri Public Service Commission makes its findings of fact having considered all of the competent and substantial evidence upon the whole record. The positions and arguments of all of the parties have been considered by the Commission in making this decision. Failure to specifically address a piece of evidence, position or

argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision.

On May 3, 1999, in Case No. EO-96-15,¹ the parties to that case filed a Stipulation and Agreement. Among other things, that stipulation provided for the elimination of Ameren's Interruptible Power Rate 10M after May 2000. It also provided that Ameren would implement a new tariff, the Voluntary Curtailment Rider, by June 1, 1999. In the final provision relevant to this case, the stipulation provided that no party to Case No. EO-96-15 would object on procedural grounds to an application asking the Commission to consider an additional alternative rate option for interruptible customers. The Commission approved the stipulation in a Report and Order issued November 18, 1999. The customers received benefits in the settlement of Case No. EO-96-15 that counterbalanced the elimination of Rate 10M or they would not have agreed to its elimination.

On March 20, 2000, Holnam, Inc., Lone Star Industries, Inc., and River Cement Company (the customers)² filed a pleading requesting that the Commission open a case to investigate the establishment of an additional alternative rate option for interruptible customers of Ameren. There were only five customers on Rate 10M, and three of them are the applicants in this case. The customers assert that the difference in their collective cost of electricity between the now-defunct Rate 10M and current firm power rates is approximately \$2.5 million annually. They state that the interruptible rates that succeeded Rate 10M are substantially different from Rate 10M and unacceptable to them. The

¹ EO-96-15 is styled "In the Matter of the Investigation into the Class Cost of Service and Rate Design for Union Electric Company." Union Electric Company is now doing business as AmerenUE.

² The customers, as part of a group called the Missouri Energy Group, or MEG, were parties to EO-96-15.

customers filed an outline of their proposal entitled "Proposed Interruptible Rate Concepts" on March 22. This proposal is sometimes referred to as "the Brubaker proposal."

The Staff of the Commission and Ameren, while careful to not oppose the customers' application on procedural grounds, filed pleadings opposing the application on substantive grounds. Ameren does not dispute the customers' \$2.5 million figure, but notes that it is the difference between the customers' rates under Rate 10M and their rates under firm-price tariffs, and does not take into account discounts the customers could receive under the Voluntary Curtailment Rider or the Option Based Curtailment Rider. Ameren asserts that the customers could take advantage of one or both of these riders.

Prepared written testimony was filed pursuant to the Commission-ordered procedural schedule, a number of procedural motions were filed and ruled upon, and an evidentiary hearing was held on November 20, 2000.

The issue presented is whether the Commission should order Ameren to file tariff sheets to implement the interruptible rate concepts proposed by the customers. The parties identified additional issues that would need to be addressed if the Commission decided this issue in the affirmative. Because the Commission concludes that ordering Ameren to file such a tariff would not be in the public interest, it is unnecessary to reach the other issues.

Under the now-defunct Rate 10M, the customers designated a portion of their "load," or total electricity they take from Ameren, as curtailable or interruptible. They received a discount based upon the size of the load designated as curtailable. Under certain circumstances described in the tariff, Ameren could call upon them to curtail their load. If they did not curtail the entire designated portion, then for at least the next year they would

be eligible for the discount based upon the amount they actually curtailed rather than the amount they originally designated. If they did not curtail at all, they would not be eligible for a discount for at least a year. In either instance, after a year, a customer who failed to curtail would have to demonstrate its ability to achieve the designated (or a new) level before again being eligible for the discount. Ameren did not shut off customers that did not curtail when called upon, nor was there any penalty (other than being ineligible for the discount) for failing to curtail.

The difference between what the customers paid under Rate 10M and what they now pay as firm customers is about \$2.5 million annually. The \$2.5 million calculation does not take into account the fact that the customers will no longer suffer the production losses that occurred under Rate 10M.³ The customers had approximately 40 megawatts of their total load that was subject to curtailment under Rate 10M. They believe that the Option Based Curtailment Rider would subject them to curtailment more frequently than Rate 10M did. The customers are critical of the way the Option Based Curtailment Rider operates. All of the customers participate in the Voluntary Curtailment Rider, and two of them have received discounts as a result, although the discounts are small in comparison to the yearly savings they achieved under the old Rate 10M. The customers testified at length about the incremental improvements their proposal achieves over the now-defunct Rate 10M, but none of that testimony provides evidence that shows that their proposal is in the public interest.

³ The exact amount of these productions losses was not calculated, but the estimates in the record show that they were significant, and may have at times even exceeded the value of the discounts received under Rate 10M.

Under the former Rate 10M, the customers had approximately 40 megawatts of curtailable load. Curtailment under Rate 10M was voluntary, as it would be under the Brubaker proposal, although both provide incentives to customers to curtail when called upon to do so. Under Rate 10M, curtailments occurred about six times a year, for about ten hours each time. The cost to Ameren of these curtailments was about \$1 per kilowatt-hour or \$1000 per megawatt-hour. During the summer of 2000, Ameren met its peak loads at costs ranging from 10 cents to 14 cents per kilowatt-hour, and during the summer of 1999 the costs ranged from 10 cents to \$1.20, averaging 39 cents per kilowatt-hour.

The Brubaker proposal has a credit of \$5.00 per kilowatt per month. This credit is not cost-based, but rather is taken from the now-defunct Rate 10M. There is no evidence in the record about how or when it was developed. The average credit paid by other regulated Missouri electric utilities is only \$2.01.

At the time of hearing, Ameren had approximately 100 customers participating in the Voluntary Curtailment Rider, for a total of about 150 megawatts of curtailable load. It had another five customers on the Option Based Curtailment Rider, with another 24 megawatts of curtailable load. All of the rate concepts in the Brubaker proposal are incorporated, at least in part, in the Voluntary Curtailment Rider or the Option Based Curtailment Rider. The pricing in these two riders is market-based, and both offer customers considerably more flexibility than either Rate 10M or the Brubaker proposal. The Voluntary Curtailment Rider is available to many more customers than was Rate 10M. It is available to many more customers than the Brubaker proposal would be. The participation in these two new programs more than offsets the 40-megawatt reduction in curtailable load from the elimination of Rate 10M. There is no evidence that the elimination of Rate 10M caused

any decrease in Ameren's system reliability. The Commission finds that Ameren has adequate system reliability without Rate 10M and without the Brubaker proposal.

Conclusions of Law

The customers have raised two general arguments to support their request that the Commission require Ameren to implement the Brubaker proposal: that it will save them money, and that it will - in effect - offer Ameren 40 megawatts of capacity. The first does nothing to prove that implementing their proposal would be in the public interest; it simply shows that it would be in their interest.

The second argument fails as well. Only five customers took service under Rate 10M when it was available. Well over a hundred participate in the two new curtailment programs. The customers' curtailable load under Rate 10M was about 40 megawatts. Total curtailable load under the two new programs is approximately 170 megawatts.

Ameren has actually increased the amount of load that is subject to curtailment by eliminating Rate 10M and implementing the Voluntary Curtailment Rider and the Option Based Curtailment Rider. It may be that not all of the 170 megawatt load will be curtailed on any given day, but if the situation warrants, Ameren can set a high price under the Voluntary Curtailment Rider and get a high level of participation. The Commission concludes that Ameren, by eliminating Rate 10M and implementing the two new riders, has increased the system-reliability benefits of having interruptible load.

The customers contend that Ameren needs additional capacity, and that implementing their proposal would be a way to obtain 40 megawatts of capacity.⁴ While it

⁴ Strictly speaking, Ameren does not obtain additional capacity by having interruptible customers. Rather, it frees up its existing capacity to serve its firm customers.

might be a way, it is an expensive way. Ameren has been able to purchase power on the market the last two summers at an average cost much lower than it could have gotten under the Brubaker proposal. Furthermore, if Ameren determines to obtain more capacity through curtailments, it only has to increase the price under the Voluntary Curtailment Rider. The customers' arguments about the use of their proposal to meet Ameren's capacity needs are unpersuasive.

The Commission will not address the customers' complaints about the Option Based Curtailment Rider. The question of whether the two new curtailment riders are as favorable to these three customers as Rate 10M was, or the Brubaker proposal would be, is irrelevant to the issue of whether it is in the public interest to require the implementation of the Brubaker proposal. The Commission concludes that it is not in the public interest to require the implementation of the Brubaker proposal.

Pending Motions

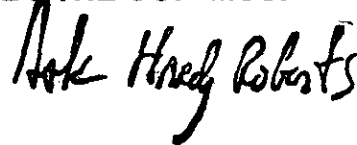
Less than a week after reply briefs were filed, on February 27, 2001, the customers filed a motion for oral argument, in which it raised no new issues. On March 20, Ameren filed a motion for leave to file a supplemental statement. The supplemental statement, which was included with the filing, explained Ameren's position about its capacity needs. On April 9, the customers filed a motion to reopen the record to take additional evidence and to implement the Brubaker proposal on an interim basis. On July 16, the customers filed another motion to reopen the record and to implement the proposal on an interim basis. These motions have to do with Ameren's alleged need for additional capacity, and most of them engendered responsive pleadings. Because none of the motions raise new allegations, and because the Commission has concluded that the Brubaker proposal is not

in the public interest regardless of whether Ameren needs additional capacity, all of these motions are moot.

IT IS THEREFORE ORDERED:

1. That the request of Holnam, Inc., Lone Star Industries, Inc., and River Cement Company to require Union Electric Company d/b/a AmerenUE to implement an additional curtailable rate program is denied.
2. That all motions not previously ruled upon by the Commission in this case are hereby denied, all objections not previously ruled upon are hereby overruled, and all evidence the admission of which was not specifically denied is admitted.
3. That this order shall become effective on August 5, 2001.

BY THE COMMISSION



**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

(S E A L)

Simmons, Ch., Murray and Lumpe, CC., concur
and certify compliance with the provisions of
Section 536.080, RSMo 2000.
Gaw, C., not participating

Dated at Jefferson City, Missouri,
on this 26th day of July, 2001.

Atty. Secretary: Mills/13-yea

Date Circulated 7-23 CASE NO. EO-2000-580

KS
Simmons, Chair

On 2
Murray, Commissioner

MS 03.56.7
Lumpe, Commissioner

NP Edward H. Roberts
Gaw, Commissioner

Commissioner

7-26
Agenda Date

Action taken: 3-0 (INP) GAW
Must Vote Not Later Than _____

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 26th day of July 2001.

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

