

**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)
Changes in Furtherance of Energy Efficiency as) **Case No. EO-2012-0142**
Allowed by MEEIA.)

**PUBLIC COUNSEL’S OBJECTION TO AMEREN MISSOURI’S MOTION TO REVISE
PROCEDURAL SCHEDULE**

COMES NOW the Office of the Public Counsel (“Public Counsel”) and objects to the Union Electric Company d/b/a Ameren Missouri’s (“Ameren Missouri”) motion to revise the procedural schedule:

1. On November 20, 2014, Ameren Missouri filed its motion requesting that the Missouri Public Service Commission (“Commission”) revise the current procedural schedule. Public Counsel objects to the revisions proposed by the Company.

2. As noted by Ameren Missouri in its motion, the Commission issued its *Order Establishing Procedural Schedule to Consider the Program Year 2013 Change Requests* on October 8, 2014.¹ Within that Order, the Commission directed all parties to file direct testimony on October 22, 2014; rebuttal testimony on November 17, 2014; surrebuttal testimony on November 26, 2014; a list of issues, order of witnesses, and order of cross examination on December 30, 2014; and position statements and pre-trial motions on December 30, 2014.² That order also scheduled a hearing for January 6-7, 2015 and provided dates for the filing of briefs.³

3. What the Company conveniently fails to mention in its motion is that the procedural schedule issued by the Commission adopted the exact dates that Ameren Missouri

¹ Doc. No. 231; Doc. No. 206.

² Doc. No. 206.

³ *Id.*

requested in its proposed procedural schedule for direct, rebuttal, and surrebuttal testimony.⁴ And further, it does not mention that the current procedural schedule had replaced yet another earlier schedule. Now however, mere days before surrebuttal testimony is to be filed, the Company once again seeks to modify the procedural schedule. According to Ameren Missouri's motion, it is not prepared to respond to Public Counsel's rebuttal testimony and because of that, should now be given two additional weeks – until December 11th – to file surrebuttal.⁵

4. Public Counsel, on the other hand, though it proposed an alternative procedural schedule, has made every effort to comply with the Commission's ordered schedule and is prepared to meet the deadline for surrebuttal on November 26, 2014.⁶

5. In support of its motion, Ameren Missouri explains that it did not expect Public Counsel to file lengthy testimony.⁷ It is Public Counsel's right to rebut any earlier testimony as thoroughly as it deems necessary. All parties, including Ameren Missouri, knew this when setting the procedural schedule. In an attempt to give itself more time, the Company feigns surprise at a thorough rebuttal offered by Public Counsel (89 pages including schedules).⁸ Nearly 90 pages may seem lengthy without context; but when one considers that Public Counsel's rebuttal included a response to the direct testimony of both Staff (38 pages including schedules) and Ameren Missouri (134 pages including schedules), 90 pages is an unsurprising length. Moreover, whether or not the Company expected Public Counsel to file some different length of testimony should have no bearing on revising, yet again, the procedural schedule. The extent to which Ameren Missouri finds itself unprepared is entirely of its own doing.

⁴ Doc. No. 196.

⁵ Doc. No. 230.

⁶ Doc. No. 195.

⁷ Doc. No. 230, pp. 1-2.

⁸ Doc. No 230; Doc. No. 211.

6. Ameren Missouri further explains that the additional time for surrebuttal testimony will help to ensure there is sufficient competent and substantial evidence on the record to allow the Commission to fulfill its legal obligation to issue a fair and reasonable decision in this case.⁹ Public Counsel points out that the Commission’s rules provide that “[d]irect testimony shall include all testimony and exhibits asserting and explaining that party’s entire case-in-chief.” 4 CSR 240-2.130(7)(A). That the company now requests additional time to file surrebuttal, suggests that even the company agrees that its position is not supported by competent and substantial evidence on which the Commission can rule. Ameren Missouri makes this request, despite having filed both direct and rebuttal testimony, with another opportunity remaining to file testimony on the 26th of November. The company has had ample opportunities to prove its case and should be required to keep the schedule that it had itself requested.

7. The Company contacted Public Counsel regarding its motion, presented the date of December 11th, and stated that it was going to file. Before Public Counsel had an opportunity to respond to this ultimatum, the Company filed its motion to revise the procedural schedule. Without the opportunity to discuss any other possible extension, Public Counsel is forced to object to the Company’s request for a too lengthy extension.

8. The situation in which the Company finds itself at present is not the fault of a truncated procedural schedule. Even if it were, which it is not, the Company sought the dates provided by the current schedule. The Commission should decline to give the Company yet another bite at the apple and deny the motion to revise the procedural schedule.

WHEREFORE, the Office of the Public Counsel respectfully requests the Commission to DENY Ameren Missouri’s motion to revise the procedural schedule.

⁹ Doc. No. 230, p. 2.

Respectfully,

OFFICE OF THE PUBLIC COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 21st day of November 2014:

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