

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 29<sup>th</sup> day of October, 2014.

In the Matter of Union Electric Company )  
d/b/a Ameren Missouri's Tariff to Increase its )  
Revenues for Electric Service )

**File No. ER-2014-0258**  
Tariff No. YE-2015-0003

**ORDER DENYING REQUEST FOR ORDER STRIKING TESTIMONY  
AND TARIFF PROVISIONS SUPPORTING CONTINUATION OF FUEL  
ADJUSTMENT RIDER**

Issue Date: October 29, 2014

Effective Date: October 29, 2014

On September 24, 2014, the Office of the Public Counsel filed a motion asking the Commission to strike those portions of Union Electric Company, d/b/a Ameren Missouri's proposed tariff sheets that would continue the company's existing Fuel Adjustment Rider. Further, Public Counsel asks that the portions of the company's direct testimony supporting the continuation of that Rider be struck. Public Counsel asserts Ameren Missouri's tariff and supporting direct testimony do not support the request to continue the Fuel Adjustment Rider because they do not provide sufficiently detailed information to satisfy the minimum filing requirements established by the Commission's regulation. Ameren Missouri filed responses to the motion and Public Counsel replied to those responses. In addition, on October 23, the Missouri Industrial Energy Consumers filed a memorandum supporting Public Counsel's motion, along with a motion requesting leave to file that memorandum out of time.

Commission Rule 4 CSR 240-3.161(3), which describes the information an electric utility must file when seeking to continue collecting under a previously approved Fuel Adjustment Rider (described in the rule as a Rate Adjustment Mechanism or RAM) states:

When an electric utility files a general rate proceeding following the general rate proceeding that established its RAM as described by 4 CSR 240-20.090(2) in which it requests that its RAM be continued or modified, the electric utility shall file with the commission and serve parties ... the following supporting information as part of, or in addition to, its direct testimony:

(A) An example of the notice to be provided to customers as required by 4 CSR 240-20.090(2)(D);

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(H) A complete explanation of all the costs that shall be considered for recovery under the proposed RAM and the specific account used for each cost item on the electric utility's books and records;

(I) A complete explanation of all the revenues that shall be considered in the determination of the amount eligible for recovery under the proposed RAM and the specific account where each such revenue item is recorded on the electric utility's books and records;

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Public Counsel contends the direct testimony offered by Ameren Missouri fails to offer a "complete" explanation of costs and revenues as required by sections (H) and (I) of the regulation and instead offers only generalities and summaries that are insufficient to inform Public Counsel and the other parties about what Ameren Missouri is proposing to recover through its Fuel Adjustment Rider. Furthermore, Public Counsel asserts Ameren Missouri's example customer notice does not describe how the fuel adjustment will be applied to a customer's monthly bill as required by section (A) of the regulation (incorporating the requirements of 4 CSR 240-20.090(2)(D)).

Ameren Missouri responded by arguing that its direct testimony fully complies with the minimum filing requirements of the regulation. The company also points out that its direct testimony and minimum filing requirements in this case are consistent with the

testimony and minimum filing requirements it has made in past rate cases and that no one has challenged the sufficiency of those filings in prior cases.

After reviewing Public Counsel's motion and the responses filed to that motion, the Commission concludes that the motion is premature. Public Counsel is essentially challenging the sufficiency of the evidence put forward by Ameren Missouri. Certainly Public Counsel may make that challenge, but the way the Commission tests the sufficiency of the evidence is through the contested hearing process. The Commission cannot judge the sufficiency of the evidence based only on the arguments of counsel.

Public Counsel expresses concern that it may be prejudiced later in the hearing by Ameren Missouri's failure to include more information in its direct testimony and minimum filing requirements. It fears the company will wait until its surrebuttal testimony to supply the missing information in response to concerns raised in rebuttal testimony, thereby limiting the ability of the other parties to respond to that information. Again, Public Counsel's concerns are premature. The Commission has a rule that governs the contents of direct, rebuttal, and surrebuttal testimony.<sup>1</sup> Ameren Missouri adamantly contends it has met all minimum filing requirements and does not request leave to supplement those filings, but if Ameren Missouri attempts to supplement its direct testimony by filing improper rebuttal or surrebuttal testimony, then Public Counsel, or any other party, may file an appropriate motion to strike that improper testimony. But speculation about what the company might file in the future cannot be the basis for a Commission order. The Commission will deny Public Counsel's motion.

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<sup>1</sup> 4 CSR 240-2.130(7).

**THE COMMISSION ORDERS THAT:**

1. The Office of the Public Counsel's Request for Order is denied.
2. The Missouri Industrial Energy Consumers' Motion for Leave to File Out of Time is granted.
3. This order shall be effective when issued.

**BY THE COMMISSION**



*Morris L. Woodruff*

Morris L. Woodruff  
Secretary

R. Kenney, Chm., Stoll, W. Kenney, and  
Hall, and Rupp, CC., concur.

Woodruff, Chief Regulatory Law Judge