

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

In the Matter of Union Electric Company)
d/b/a AmerenUE's Tariff to Increase Its)
Annual Revenues for Electric Service) Case No. EE-2011-0028

**PUBLIC COUNSEL'S RESPONSE IN OPPOSITION TO ADDITIONAL
RESTRICTIONS ON DIRECT TESTIMONY**

COMES NOW the Office of the Public Counsel for its Response in Opposition to Additional Restrictions on Direct Testimony states as follows:

1. On November 2, 2010, the parties¹ filed an agreement as to proposed procedural schedule, related procedural items, and test year true-up cut-off dates. On November 5, Ameren Missouri filed a motion asking the Commission to require restrictions and limitations on the other parties' direct testimony that are presumably² different than or in addition to those required by the Commission's rules. The Commission, on November 5, set a deadline of noon on November 9 for responses to Ameren Missouri's request. The Commission rightly recognized that Ameren Missouri's request was not a part of the joint agreement.

2. The gist of Ameren Missouri's request is that, because problems arose in recent Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company cases regarding the timing of prudence-related filings, the Commission should require restrictions in this case that are more stringent than those imposed by the Commission's rules. Public Counsel opposes these additional restrictions and urges the Commission to deny Ameren Missouri's request.

¹ Although the agreement was not unanimous, no party objected to that proposal.

² Because Ameren Missouri does not discuss the Commission's rules, one can only presume that Ameren Missouri believes them to be inadequate, and that its proposal is somehow superior.

3. 4 CSR 240-2.130(7) requires that “Direct testimony shall include all testimony and exhibits asserting and explaining that party’s entire case-in-chief...” 4 CSR 240-2.130(8) precludes a party from supplementing its testimony without leave of the Commission. 4 CSR 240-2.130 was most recently revised in 1996, more recently than the cases to which Ameren Missouri refers in its request. Ameren Missouri does not explain why the restrictions created by the Commission’s rules are insufficient in this case.

4. These rules have been in place for a number of years, parties understand their requirements, and on occasion move to strike testimony that is not in compliance. It is unclear exactly what additional restrictions Ameren Missouri seeks to impose through its request. Ameren Missouri rate cases historically have significant procedural and discovery disputes; it would be inappropriate for the Commission to require parties to also have to figure out a vague new set of restrictions and limitations on testimony while the case progresses. If Ameren Missouri is convinced that the current rules are inadequate, it can petition the Commission to revise those rules. A rulemaking would allow the parties and the Commission to fully vet proposed changes; forcing other parties to learn Ameren Missouri’s proposal on the fly in this case would put them at a disadvantage.

5. Moreover, although it never discusses the fuel adjustment clause in the body of its request, Ameren Missouri includes in its requested language specific requirements for any party that wishes to address the fuel adjustment clause in its direct testimony. Ameren Missouri provides no explanation of why the fuel adjustment clause merits special mention.

6. Absent a showing that the current rules are inadequate – and Ameren Missouri never even acknowledges that there are current rules that cover this exact issue – the Commission should not require the changes that Ameren Missouri requests.

WHEREFORE, Public Counsel respectfully requests that the Commission deny Ameren Missouri's Motion to Provide Additional Clarification of Requirements for the Parties' Cases-in-Chief and Direct Testimony

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Lewis R. Mills, Jr.

By: _____

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I hereby certify that a copy of the foregoing has been emailed to parties of record this 9th day of November 2010.

/s/ Lewis R. Mills, Jr.
