

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

In the matter of Union Electric Company	)	<u>Case No. ET-2007-0459</u>
d/b/a AmerenUE's Tariff Establishing an	)	File No. YE-2008-0444
Industrial Demand Response Program	)	

**MEMORANDUM IN SUPPORT OF STIPULATION AND AGREEMENT**

COMES NOW the Staff ("Staff") of the Missouri Public Service Commission ("Commission"), and for its Memorandum In Support Of Stipulation And Agreement, respectfully states as follows:

1. On May 31, 2007, the Commission opened this case for the purpose of receiving a proposed tariff filing from Union Electric Company d/b/a AmerenUE ("AmerenUE" or "Company"), designed to implement an Industrial Demand Response ("IDR") pilot program. On July 2, 2007, AmerenUE complied by filing proposed tariff sheets.<sup>1</sup>

2. On January 25, 2008, AmerenUE, the Staff, the Office of the Public Counsel ("Public Counsel") and the Missouri Energy Group ("MEG") filed a Stipulation And Agreement ("Agreement") in settlement of all issues in this case. Included with the filing were six (6) proposed tariff sheets--- P.S.C. MO. No. 5, Original Sheet Nos. 219 through 224---each bearing an effective date of February 24, 2008.

3. By order dated January 28, 2008, the Commission, among other things, directed the Staff to file a memorandum in support of the Agreement no later than February 5, 2008.

4. This case stems from the Commission's May 22, 2007 Report And Order in AmerenUE's most recent general rate increase case, Case No. ER-2007-0002, in which

AmerenUE's then-proposed IDR tariff was at issue. Among the Commission's concerns at that time was the fact that AmerenUE's proposal did not include a plan for evaluating the effectiveness of the IDR tariff and therefore did not comply with Commission Rule 4 CSR 240-3.150(3). The Report And Order states at page 104:

The Commission will not approve the submitted tariff that would implement an IDR Pilot Program at this time because the submitted tariff does not comply with the Electric Utility Promotional Practices rule. The Commission orders AmerenUE to submit a revised tariff including an evaluation plan within 30 days of the effective date of this order. In a separate order, the Commission will open a new case to consider that revised tariff. . . . As it reevaluates its proposed tariff, the Commission directs AmerenUE to consult with the other parties and to give due consideration to MEG. If AmerenUE does not file a tariff that is acceptable to all other parties, the Commission may impose the revisions urged by MEG.

5. During the considerable period since the July 2, 2007 filing of AmerenUE's proposed revised tariff, the parties, mindful of the level of the Commission's interest in implementing such a tariff,<sup>2</sup> worked diligently to carry out the Commission's charge, and have succeeded in producing the subject Agreement. As noted in paragraph 15 of the Agreement, Noranda, Inc. and the Missouri Industrial Energy Consumers, the two non-signatory parties to this case, do not oppose the Agreement. Moreover, approval of the tariff sheets with the effective date of February 24, 2008, as requested by AmerenUE, will allow sufficient time for implementation prior to the 2008 summer season, which begins in June.

6. Paragraph 6 of the Agreement sets out AmerenUE's agreement to work promptly with both the Staff and Public Counsel to develop a plan to evaluate the success of the pilot program. Paragraph 7 resolves a major concern of the Staff, as only net costs of the pilot program will be booked to the regulatory asset account used for demand-side programs. In that

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<sup>1</sup> On October 23, 2007, AmerenUE made an additional tariff filing as a proposed replacement for its July 2 filing.

<sup>2</sup> "The Commission is very interested in promoting the development of demand response programs." (Report And Order, p. 103).

connection, the Company has committed to engage in thorough analysis to determine such net costs.

7. Paragraph 8 of the Agreement contains an important provision to enable this IDR pilot program to continue for the full three-year term (*i.e.*, three summer seasons) at rates and on terms that are acceptable to the parties. Currently, the Federal Energy Regulatory Commission (“FERC”) is considering whether to approve Module E of the MISO Markets Tariff. The current draft of Module E contains new resource adequacy provisions and the terms and criteria under which Demand Resources would receive capacity credit as a Load Modifier. Under the Agreement, FERC approval of Module E would trigger a prompt reconsideration of the rates and terms of the currently proposed tariff. Because the effect of FERC approval of a final version of Module E cannot be known and accounted for at this time, the Staff views it as significant that the parties have agreed to continue this pilot, if possible, by reopening this case to modify the rates and terms of the pilot, if and when Module E is approved. Specifically, paragraph 8 of the Agreement provides that if the FERC approves Module E, AmerenUE will: a) immediately cease to enter into any new IDR contracts, (b) promptly file with this Commission its assessment of the impact of Module E on the Company’s IDR pilot program, and (c) file revised tariff sheets to accommodate any such impact.

8. The Staff believes that the IDR tariff sheets, filed in conjunction with the Agreement on January 25, 2008, will establish a demand response pilot program that has an excellent chance of attracting participants from a number of the Company’s present large industrial customers.

9. The Commission will recall that on July 12, 2007, it issued a Report And Order in Case No. EO-2006-0496 (along with other cases) pursuant to the federal Energy Policy Act of

2005. That case focused on the federal “Time-Based Metering and Communications Standard,” and the Commission decided that no further action was required of it under the federal law. As support for its decision, the Commission cited the existence of Commission Rule 4 CSR 240-22.050, along with the tariffs of the various electric utilities in the state, as demonstrating that Missouri is already vigorously pursuing programs that effectively implement the policy encouraged by the federal standard. Among the types of rates cited by the Commission as being offered by Missouri electric utilities was “some form of interruptible/curtailable rate that provides credits for consumers with large loads who enter into pre-established peak load reduction agreements.” Implementation of the IDR tariff proposed in this case is in keeping with the Commission’s policy of encouraging Missouri’s regulated electric utilities to continue developing innovative demand-side management programs.

WHEREFORE, for the reasons stated above, the Staff recommends that the Commission issue an Order approving the Stipulation And Agreement, along with Tariff Sheets, P.S.C. MO. No. 5, Original Sheet Nos. 219 through 224 with an effective date of February 24, 2008.

Respectfully submitted,

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### **Certificate of Service**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to all counsel of record this 5<sup>th</sup> day of February 2008.

*/s/ Dennis L. Frey*