

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

In the Matter of Union Electric Company, d/b/a	)	<u>File No. ER-2011-0028</u>
Ameren Missouri's Tariff to Increase Its Annual	)	Tariff No. YE-2011-0116
Revenues for Electric Service	)	

**ORDER GRANTING AMEREN MISSOURI'S MOTION TO STRIKE A  
PORTION OF DAVID MURRAY'S SURREBUTTAL TESTIMONY**

Issue Date: April 27, 2011

Effective Date: April 27, 2011

On April 21, 2011, Ameren Missouri filed a motion asking the Commission to strike a portion of the prefiled surrebuttal testimony of Staff's witness, David Murray. The portion of Murray's surrebuttal to which Ameren Missouri objects relates Murray's views about the management of Ameren Missouri's credit facility that it shares with its corporate parent and affiliates. In brief, Murray suggests that Staff's proposal to disallow a portion of Ameren Missouri's costs to install the Sioux scrubbers is appropriate because Ameren Missouri would not have needed to slow down work in the face of the 2008 credit crisis if it did not share a credit facility with its parent, Ameren Corporation, and other affiliates.

Ameren Missouri objects to the inclusion of this argument in Murray's surrebuttal because it is a new argument that was not included in Staff's audit report on the construction of the Sioux scrubbers. Since Staff did not raise the argument until the round of surrebuttal testimony, just a few days before the start of the hearing, Ameren Missouri's opportunity to rebut that argument is limited.

In its response to Ameren Missouri's motion to strike, filed on April 25, Staff denies that Murray's surrebuttal argument is intended to be a new basis for Staff's proposed

disallowance of a portion of the Sioux scrubber costs. Instead, Staff claims that Murray's testimony is simply intended to alert the Commission to Staff's general concerns about a "significant, ongoing weakness in the management of that utility." Ameren Missouri replied to Staff's response on April 27.

Commission rule 4 CSR 240-2.130(7) requires that direct testimony include "all testimony and exhibits asserting and explaining that party's entire case-in-chief." That same rule limits surrebuttal testimony to "material which is responsive to matters raised in another party's rebuttal testimony."

Staff set out its case-in-chief regarding the Sioux scrubber disallowance in its Construction Audit and Prudence Review filed on February 8, 2011. In that audit report and in other aspects of the testimony of Staff's witness Roberta Grissum, Staff contends that its proposed disallowance is appropriate because Ameren Missouri had sufficient credit available during the 2008 credit crisis and did not need to slow down work on the Sioux scrubbers to conserve its cash liquidity. Murray's surrebuttal testimony for the first time injects an argument that perhaps Ameren Missouri did not have sufficient credit available during the crises only because of its shared credit facility with its less credit-worthy parent and affiliates.

Murray's testimony, to the extent that it is injecting a new basis for Staff's disallowance for the first time in surrebuttal testimony is improper and in violation of the Commission's regulation regarding direct and surrebuttal testimony. Staff claims that Murray's testimony is not intended to inject a new basis for Staff's disallowance, but if that is true, then his general warning about a possible future disallowance in a future rate case

has no relevance to any issue before the Commission in this case. On either basis, Ameren Missouri's motion to strike is appropriate.

**THE COMMISSION ORDERS THAT:**

1. Ameren Missouri's Motion to Strike Portions of the Prepared Surrebuttal Testimony of David Murray is granted.

2. The following portions of David Murray's Surrebuttal Testimony are stricken: page 29, beginning at line 13, and continuing through page 33, line 4, and page 33, lines 16-19.

2. This order shall become effective immediately upon issuance.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

( S E A L )

Morris L. Woodruff, Chief Regulatory  
Law Judge, by delegation of authority  
pursuant to Section 386.240, RSMo 2000.

Dated at Jefferson City, Missouri,  
on this 27<sup>th</sup> day of April, 2011.