

**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. ER-2011-0028**

THE OFFICE OF THE PUBLIC COUNSEL'S POSITION STATEMENT

COMES NOW the Office of the Public Counsel (Public Counsel) and states its position on the issues in this case as follows:

1. Overview and Policy:

- A. What "cost of service" and/or regulatory policy considerations, if any, should guide the Commission's decision of the issues in this case?

In addition to cost of service other relevant factors in setting rates include the value of a service, the affordability of service, rate impacts, and rate continuity. (Meisenheimer Rebuttal, p. 6) Customers have faced significant economic challenges including high unemployment, slow wage growth and recent utility rate increases. (Meisenheimer Rebuttal, pages 2-8) Issues should be decided in a manner that recognizes the economic challenges faced by households and reasonably minimizes the rate impact of any increase on consumers. Issues should be decided in a manner that focuses on allowing customers greater control over their electric bills. (Meisenheimer Rebuttal, p. 6)

- B. Can the Commission consider and rely on the testimony of ratepayers at local public hearings in determining just and reasonable rates?

Yes. The Commission must rely on the testimony of ratepayers at local public hearings to fulfill the Commission's role in determining just and reasonable rates. Customers testifying in the recent public hearings have regularly voiced frustration and concerns about the burden of additional rate increases given the current state of the economy. Some customers have had to work extra hours or two jobs to make ends meet. Some have made choices between paying utility bills and buying food and medicine. (Meisenheimer Rebuttal, p. 6)

If so, how should the Commission take this testimony into account, if at all?

The Commission should take this testimony into account by authorizing a rate of

return at the low end of the range that the Commission finds to be reasonable. The Commission should also use any other tools available to afford relief to ratepayers while still affording Ameren Missouri an opportunity to earn a reasonable return on its investment.

C. Staff's response to questions concerning its Revenue Requirement Cost-of-Service Report.

2. Storm Costs/Vegetation-Infrastructure Trackers

A. Vegetation-Infrastructure:

(1) Should the Commission authorize Ameren Missouri to continue the current tracking mechanism for vegetation management and infrastructure inspections?

No.

B. Storm Costs:

(1) How should the Commission calculate Ameren Missouri's normalized, non-labor storm costs to be included in the revenue requirement for ratemaking purposes?

Public Counsel takes no position on this issue at this time.

(2) Should the difference between the amount of non-labor storm costs that Ameren Missouri incurred during the true-up period and the normalized level of non-labor storm costs included in the revenue requirement for ratemaking purposes be amortized over five (5) years or should that difference be included in the normalized costs used for ratemaking purposes?

Public Counsel takes no position on this issue at this time.

3. Sioux Scrubbers: Should the Commission allow in rate base \$31 million in cost increases (\$18 million in construction costs and \$13 million in AFUDC) that were incurred as a result of Ameren Missouri's decision to temporarily suspend construction of the Sioux Plant Wet Flue Gas Desulfurization Project due to the Company's concerns about conditions in the financial markets during the period commencing in late 2008 and continuing into early 2009?

No. Public Counsel supports the Staff position on this issue.

4. Energy Efficiency/Demand Side Management (DSM):

- A. Is Ameren Missouri in compliance with the Missouri Energy Efficiency Investment Act (MEEIA) regardless of whether or not proposed rules under the law are effective?

No. The Commission stated on page 88 of its Report and Order in Case No. ER-2010-0355 that “Utilities within the Commission’s jurisdiction must comply with [MEEIA] regardless of whether or not the proposed rules under law are effective.” MEEIA requires Ameren Missouri to implement “commission approved demand-side programs...with a goal of achieving all cost-effective demand-side savings.” Ameren Missouri is not complying with this provision in MEEIA nor has it proposed a plan to do so.

- (1) What DSM programs should Ameren Missouri continue and/or implement, and at what annual expenditure level?

The Commission should order Ameren Missouri to continue all of its existing programs at no less than its current (2011) level of DSM expenditures which is approximately \$30 million per year.

- (2) Should Ameren Missouri continue to ramp up its demand side management programs to pursue all cost-effective demand side savings?

Yes. Ramping up its programs at a rate that will put it on a path towards achieving all cost effective DSM is one of the actions that MEEIA requires Ameren Missouri to take.

- B. Does Ameren Missouri’s request for demand-side management programs’ cost recovery in this case comply with MEEIA requirements?

No. The Company’s request for demand-side management program cost recovery in this case does not comply with MEEIA requirements because Ameren Missouri: (1) did not file a timely application for the Commission to approve its DSM programs as part of this case and (2) did not develop and present a portfolio of DSM programs that are designed to achieve all cost effective demand-side savings. (Kind Surrebuttal, p. 6)

- (1) Should the Commission approve a cost recovery mechanism for Ameren Missouri DSM programs as part of this case?

Yes. The Commission should decide that it is appropriate for Ameren Missouri to continue to use the same regulatory asset deferral mechanism with a six-year amortization period for prudently incurred DSM expenditures that is currently in effect for the Company. (Kind Surrebuttal, p. 11)

(a) If so, over what period should DSM program costs incurred after December 21, 2010 be amortized?

Six years. (Kind Surrebuttal, p. 11)

(b) Should the mechanism include an adjustment to kWh billing determinants?

No. Approval of such an adjustment mechanism would not be lawful or in the public interest. The Commission should not approve this cost recovery mechanism because Ameren Missouri's DSM proposal is not in compliance with other key requirements in MEEIA and the MEEIA rules. These other key requirements that Ameren Missouri's DSM proposal does not comply with are the requirements that: (1) Demand-side programs must be designed and implemented with the goal of achieving all cost-effective demand-side savings, (2) Demand-side programs must be approved by the Commission, and (3) Demand side programs must result in verifiable savings. Ameren Missouri has not proposed a method for an independent verification of the savings by an outside consultant that is not hired by the utility, such as the method set forth in section (7) of 4 CSR 240-20.093 of the Commission's proposed MEEIA rules. The proposed billing determinant adjustments are also not consistent with legal requirements associated with use of a historical test year (with true up) based on known and measureable factors. Finally, the proposed billing determinant adjustments are also not consistent with the true-up cut off dates that were agreed to by the parties in this case and approved by the Commission. (Kind Surrebuttal, pages 6-10)

(c) How much should the Commission reduce the billing determinants?

See response to (b) above. If the Commission decides to approve a billing unit adjustment, despite Public Counsel's recommendation that it not be approved, then the adjustment to billing units should only reflect the reduction in loads that are expected to occur as a direct result of Ameren Missouri's DSM implementation activities in the future time period beginning with the date when new rates resulting from this case become effective.

(d) If billing units are adjusted for demand side savings, how should the NBFC rates be calculated?

See response to (b) above. If the Commission decides to approve a billing unit adjustment, despite Public Counsel's recommendation that it not be approved, then an adjustment to NBFC would be necessary so that customers are not overcharged through the FAC.

- C. Should a portion of the low income weatherization program funds be utilized to engage an independent third party to evaluate the program?

Public Counsel takes no position on this issue at this time.

5. **Taum Sauk:** What amount, if any, of Ameren Missouri's investment related to the reconstruction of Taum Sauk should be included in rate base for ratemaking purposes?

None of Ameren Missouri's investment related to reconstruction of Taum Sauk should be included in rate base for ratemaking purposes. There is no evidence to demonstrate that Ameren Missouri would be seeking to recover any costs in this case related to investments in the Taum Sauk plant, if the Taum Sauk disaster that was the result of a number of errors in judgment by Ameren Missouri related to the operation and maintenance of the plant and non-compliance with FERC regulations, had not occurred. All of Ameren Missouri's arguments that it would be seeking cost recovery for Taum Sauk investments even if the Taum Sauk disaster had not occurred are based on speculation about how history may have unfolded under different circumstances that would have existed if the many errors in judgment preceding the disaster, and the disaster itself, had not occurred. The only way to know with certainty what would have happened in the absence of the Taum Sauk disaster would be (1) if it had never occurred or (2) if there were firm plans in place prior to the disaster to upgrade the Taum Sauk facility in a manner that included some or all of the upper reservoir re-building activities that have taken place. There were no firm or even tentative plans to spend money upgrading the Taum Sauk plant at the time of the disaster in December 2005. Furthermore, after the disaster occurred, Ameren Missouri made several statements in which it accepted full responsibility for the disaster happening and expressed its commitment to hold ratepayers harmless from any adverse impacts resulting from the disaster. Permitting recovery of any costs related to the reconstruction of Taum Sauk would not be consistent with the Company's hold harmless commitment and would force customers to share in the rebuilding costs that were solely due to the imprudent and reckless actions of Ameren Missouri. (Kind Direct, Rebuttal and Surrebuttal)

6. **Municipal Lighting:** What is the appropriate ratemaking treatment for Ameren Missouri's street lighting classes in this case?

Public Counsel takes no position on this issue at this time.

7. **Cost of Capital:** What return on equity should be used to determine Ameren Missouri's revenue requirement in this case?

8. **Fuel Adjustment Clause Issues:**

- A. Should the Commission authorize Ameren Missouri to continue its current Fuel Adjustment Clause (FAC) or should the Commission discontinue or order modifications to the FAC?

The Commission should continue the FAC with a modified sharing percentage.

- B. Should the sharing percentage in Ameren Missouri's FAC be changed from 95/5 percent to 85/15 percent?

Yes.

- C. Should the length of the recovery periods for the FAC be reduced from twelve (12) months to eight (8) months?

Public Counsel takes no position on this issue at this time.

- D. Should the Company have the ability to adjust the FPAC rate for errors in calculations that may have occurred since the FAC Rider was granted to Ameren Missouri?

No.

- E. What is the appropriate tariff language to reflect any modifications or clarifications to Ameren Missouri's FAC?

Public Counsel supports the tariff change pertaining to the 85/15 percent sharing percentage contained in Schedule DCR 1-2 of the surrebuttal testimony of Staff witness David Roos.

9. **LED Lighting:** Should the Commission order Ameren Missouri, not later than twelve (12) months following the effective date of the Report & Order in this case, to complete its evaluation of LED SAL systems, and, based on the results of that evaluation, either file a proposed LED lighting tariff(s) or indicate why such tariff(s) should not be filed?

Public Counsel takes no position on this issue at this time.

10. **Solar Rebates Accounting Authority Order (AAO):**

- A. What is the appropriate method -- RESRAM or an Accounting Authority Order (AAO) -- for Ameren Missouri to recover the costs it incurs for compliance with the Missouri Renewable Energy Standard (RES) after the true-up date in this case (February 28, 2011)?

Public Counsel takes no position on this issue at this time.

- B. If the Commission determines that an AAO is appropriate, should the Company be authorized in this case to implement an AAO to recover the costs it incurred for compliance with the RES before the true-up date in this case?

Public Counsel takes no position on this issue at this time.

- C. What amount of solar rebate costs should Ameren Missouri be allowed to include in the revenue requirement used to set rates in this case?

Public Counsel takes no position on this issue at this time.

11. Union Issues:

- A. Does the Commission have the authority to order Ameren Missouri to do the following:

- (1) Institute or expand its training programs within specified time periods as a means of investing in its employee infrastructure?
- (2) Hire specific additional personnel within specified time periods as a means of investing in its employee infrastructure?
- (3) Submit to a tracker for its energy delivery distribution system?
- (4) Submit to a tracker to address the need and efforts to replace the aging workforce?
- (5) Expend a substantial portion of the rate increase from this proceeding on investing and re-investing in its regular employee base in general, including hiring, training and utilizing its internal workforce to maintain its normal and sustained workload?

- (6) Use a portion of the rate increase from this proceeding to replace equipment, wires and cable which have out lived their anticipated life?

Public Counsel takes no position on this issue at this time.

- B. If the Commission does have the authority, should it order Ameren Missouri to take one or more of the steps listed above?

Public Counsel takes no position on this issue at this time.

12. Property Tax:

- A. What amount of property tax expense relating to the Sioux Scrubbers and the Taum Sauk additions the Company seeks to put in rate base in this case should the Commission include in Ameren Missouri's revenue requirement for ratemaking purposes?

No amount of property tax related to the Taum Sauk additions that the Company seeks to put in rate base in this case (and Public Counsel opposes) should be included in Ameren Missouri's revenue requirement for ratemaking purposes. Public Counsel also supports the Staff's proposed adjustments to property tax expense related to the Sioux Scrubbers.

- B. Should the Commission order Ameren Missouri to return to its customers any reductions that the Company receives in its 2010 property taxes?

Public Counsel takes no position on this issue at this time.

13. Rate Design/Class Cost of Service

A. Class Cost of Service:

- (1) Which of the proposed class cost of service methodologies – the 4 NCP-A&E methodology, the Base Intermediate-Peak methodology, or the 4P-P&A methodology – should the Commission use in this case to allocate Ameren Missouri's investment and costs among the Company's various rate classes?

The Commission should use the A&4CP as proposed by OPC witness Barbara Meisenheimer.

- (2) What methodology should the Commission use in this case to allocate Ameren Missouri's fixed production plant investment and operation and maintenance costs?

Production plant costs and associated expenses should be allocated to customer classes according to an A&4CP as proposed by OPC witness Barbara Meisenheimer. The A&4CP is a composite allocator that includes (1) a peak demand related component reflecting the average of the four highest system use hours and (2) an energy related component reflecting normal use throughout the year measured as average energy use. The peak demand component should be weighted in proportion to the load factor. The energy component should be weighted as 1-the load factor. (Meisenheimer Direct, p. 4)

B. Rate Design:

- (1) To what extent should the Commission rely on the results of a class cost of service study in apportioning revenue responsibility among Ameren

Missouri's customer classes in this case?

The Commission should rely on the results of a class cost of service study as a guide in apportioning revenue responsibility among Ameren Missouri's customer classes in this case, subject to other important considerations including the value of a service, the affordability of service, rate impacts, and rate continuity. (Kind direct, p. 8)

(2) What amount of increase or decrease in the revenue responsibilities of Ameren Missouri's customer classes should the Commission order in this case?

The Commission should use the results of the class cost of service study presented in the direct rate design testimony of Public Counsel witness Ryan Kind as a guide in determining the amount of increase or decrease in the revenue responsibilities of Ameren Missouri's customer classes that should be ordered by the Commission in this case. The results of Public Counsel's class cost of service study indicate that there is no need to make a revenue neutral class revenue requirement shift in this case for the Residential class. For the other rate classes, OPC recommends making some revenue neutral class rate revenue shifts to bring the amount of rate revenues collected from these classes closer to the level of costs that were allocated to these classes in OPC's CCOS study. We recommend making revenue neutral shifts (revenue neutral from a total company perspective) that move the class revenues half-way towards the class cost of service. There should be an additional constraint placed on the extent to which class revenues are moved towards class cost of service to ensure that no class receives an overall reduction in their rate revenues (the combined effect of a class's revenue neutral rate revenue decrease and the class's share of an overall increase in the company's revenue requirement) at the same time other customer classes are having overall increases in their rate revenues.

(3) What is the appropriate monthly residential customer charge that should be set for Ameren Missouri in this case?

The residential customer charge should remain at \$8.00. (Kind Rebuttal, p. 16)

Should Ameren Missouri be required to eliminate declining block rates for the residential winter energy charge? If so, should the declining block rates be eliminated in a revenue neutral manner?

The declining block rates for the residential winter energy charge should either be eliminated in this case or progress should be made towards its complete elimination in Ameren Missouri's next rate case

WHEREFORE, Public Counsel respectfully submits its Position Statement on the issues in this case.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

/s/ Lewis R. Mills, Jr.

By: _____
Lewis R. Mills, Jr. (#35275)
Public Counsel
P O Box 2230
Jefferson City, MO 65102
(573) 751-1304
(573) 751-5562 FAX
lewis.mills@ded.mo.gov

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 22nd day of April 2011:

General Counsel Office
Missouri Public Service Commission
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
GenCounsel@psc.mo.gov

/s/ Lewis R. Mills, Jr.
