

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

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

**STAFF'S RESPONSE TO AMEREN MISSOURI'S MOTION
TO PROVIDE ADDITIONAL CLARIFICATION OF REQUIREMENTS
FOR THE PARTIES' CASES-IN-CHIEF AND DIRECT TESTIMONY**

Comes now the Staff of the Missouri Public Service Commission (Staff), through the Office of Staff Counsel, in response to the Missouri Public Service Commission's (Commission) November 5, 2010 Order Establishing Time To Respond To Ameren Missouri's Motion To Clarify. In response, the Staff states as follows:

1. The Commission scheduled an early prehearing conference for October 12, 2010 at 10:00 a.m. in Room 310 of the Governor Office Building, 200 Madison Street, Jefferson City, Missouri. The Commission directed that the parties shall file a proposed procedural schedule.

2. The early prehearing conference was held on October 12, 2010 as ordered by the Commission. On November 2, 2010, the Staff on behalf of itself, Union Electric Company, d/b/a Ameren Missouri (Ameren Missouri), and various other parties filed an Agreement As To Proposed Procedural Schedule, Related Procedural Items, And Test Year True-Up Cut-Off Dates (Agreement).

3. The Staff believes that the Agreement filed on November 2, 2010 addresses the matter raised by Ameren Missouri in its November 5, 2010 filing, but Ameren Missouri is free to make any filing it chooses with the Commission, and the Staff is free to respond and defend itself when attacked. Ameren Missouri (a) seeks to create an issue where none exists, by conjuring up, in the Ameren Missouri rate case, what Ameren Missouri believes is the specter of the Iatan 1 air

quality control system construction project filing issue in Case Nos. ER-2009-0089 and ER-2009-0090, and, thereby, (b) attempts to prejudice the Staff's Sioux scrubbers and Taum Sauk rebuild cases before they are even filed on February 4, 2011. Ameren Missouri apparently believes that it can benefit, by in its rate case, baselessly referring to procedural matters involving an audit of a different construction project respecting a different electric utility under different circumstances.

4. The Staff told Ameren Missouri at the October 12, 2010 early prehearing conference, in front of the other parties in attendance, that the Staff would file its direct case respecting the Sioux scrubbers and the Taum Sauk rebuild on the date agreed upon for the filing of parties' (other than Ameren Missouri) revenue requirement direct cases, which is February 4, 2011. A further indication that the Staff fully intends to make its Sioux scrubbers and Taum Sauk direct case filing on February 4, 2011, and true-up direct filing on May 20, 2011, is that the procedural schedule agreed upon by Ameren Missouri, and filed on November 2, 2010 in the instant case, includes cutoff dates requested by the Staff for end of month closings for the Sioux scrubbers and Taum Sauk costs that will be included in the Staff's direct case and true-up direct case to be filed, February 4, 2011 and May 20, 2011, respectively.

5. Ameren Missouri fails to note in its Motion that the Commission has a rule on evidence which already defines prepared direct, rebuttal, and surrebuttal testimony and provides as follows, 4 CSR 240-2.130 Evidence:

(7) For the purpose of filing prepared testimony, **direct, rebuttal, and surrebuttal testimony** are defined as follows:

(A) **Direct testimony shall include all testimony and exhibits asserting and explaining that party's entire case-in-chief;**

(B) Where all parties file direct testimony, **rebuttal testimony** shall include all testimony which is responsive to the testimony and exhibits contained in any other party's direct case. A party need not file direct testimony to be able to file rebuttal testimony;

(C) Where only the moving party files direct testimony, rebuttal testimony shall include all testimony which explains why a party rejects, disagrees or proposes an alternative to the moving party's direct case; and

(D) **Surrebuttal testimony** shall be limited to material which is responsive to matters raised in another party's rebuttal testimony.

(8) **No party shall be permitted to supplement prefiled prepared direct, rebuttal or surrebuttal testimony** unless ordered by the presiding officer or the commission. A party shall not be precluded from having a reasonable opportunity to address matters not previously disclosed which arise at the hearing. This provision does not forbid the filing of supplemental direct testimony for the purpose of replacing projected financial information with actual results.

(Emphasis supplied).

6. Regarding the specific language that Ameren Missouri has requested that the Commission adopt for purposes of the instant case, the Staff requests that the Commission apply to Ameren Missouri comparable language that Ameren Missouri's prepared direct testimony and schedules as prefiled September 3, 2010, pursuant to Commission rules 4 CSR 240-2.065(1) Tariff Filings Which Create Cases and 4 CSR 240-2.130(7) and (8) Evidence, shall be required by the Commission to assert and fully support Ameren Missouri's proposed rate base (including changes or additions), proposed rate of return (including changes or additions), proposed revenue requirement (including changes or additions), and proposed tariffs (including changes or additions).

Wherefore the Staff provides its response to the Commission's November 5, 2010 Order Establishing Time To Respond To Ameren Missouri's Motion To Clarify and requests that the Commission issue an Order applying to Ameren Missouri in this proceeding comparable language to that which Ameren Missouri seeks in its November 5, 2010 filing with the Commission, thereby requiring that Ameren Missouri's prepared direct testimony and schedules, as prefiled on September 3, 2010, comply with Commission rules 4 CSR 240-2.065(1) Tariff Filings Which Create Cases and 4 CSR 240-2.130 (7) and (8) Evidence requiring that Ameren

Missouri's prepared direct testimony and schedules, as prefiled on September 3, 2010, assert and fully support Ameren Missouri's proposed rate base (including changes or additions), proposed rate of return (including changes or additions), proposed revenue requirement (including changes or additions), and proposed tariffs (including changes or additions).

Respectfully submitted,

/s/ Steven Dottheim
Steven Dottheim
Chief Deputy Staff Counsel
Mo. Bar No. 29149

Attorney for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102
573-751-7489 (Voice)
573-751-9285 (Fax)
steven.dottheim@psc.mo.gov

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 9th day of November 2010.

/s/ Steven Dottheim