

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 10<sup>th</sup> day of November, 2010.

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 ADOPTING PROCEDURAL SCHEDULE AND ESTABLISHING  
TEST YEAR**

Issue Date: November 10, 2010

Effective Date: November 10, 2010

On November 2, 2010, most of the parties in Union Electric Company, d/b/a Ameren Missouri's general rate increase case filed an agreement as to proposed procedural schedule, related procedural items, and test year true-up cut-off dates. The parties that joined in the agreement are Union Electric Company, d/b/a Ameren Missouri, the Staff of the Commission, the Office of the Public Counsel, the Missouri Department of Natural Resources, the Missouri Energy Group, the Missouri Industrial Energy Consumers, AARP, the International Brotherhood of Electrical Workers and International Union of Operating Engineers Locals, the Midwest Energy Users Association, Consumers Council of Missouri, the Missouri Retailers Association, Charter Communications, Inc., and the Natural Resources Defense Council. Not all parties joined in the agreement, so on November 2, the Commission directed that any party wishing to object to the agreement file its objection by November 4. On November 4, the Municipal Group filed notice indicating it does not object to the agreement. No party has objected to the agreement.

On November 5, Ameren Missouri filed a motion asking the Commission to include additional language in this scheduling order to clarify the requirements of the other parties' cases-in-chief and direct testimony. In particular, Ameren Missouri expresses concern that Staff will fail to include the results of its construction audits for the Sioux scrubbers and the Taum Sauk facility in its direct testimony, and asks the Commission to include language in this order that would make it clear that each party must fully support its proposed rate base in direct testimony. Ameren Missouri patterns its proposed language from a Commission scheduling order in a 1984 rate case.

The Commission allowed the other parties until Noon on November 9 to respond to Ameren Missouri's motion. Staff and Public Counsel filed timely responses opposing Ameren Missouri's motion. Staff and Public Counsel point out that the additional language Ameren Missouri asks the Commission to include essentially mirrors the requirements of Commission rule 4 CSR 240-2.130(7)&(8). They contend the rules are adequate and the Commission's practice should not be modified unnecessarily. In addition, Staff states that it fully intends to make its direct case regarding the Sioux scrubbers and the Taum Sauk facility in its direct case as required by the regulation. Thus, no additional language is needed.

The Commission's rule on what must be included in direct testimony is quite clear; "direct testimony shall include all testimony and exhibits asserting and explaining that party's entire case-in-chief."<sup>1</sup> Ameren Missouri does not attempt to explain why that rule is not sufficient. The Commission concludes that the additional language proposed by Ameren Missouri is an unnecessary duplication of the requirement of the rule. The Commission will deny Ameren Missouri's motion.

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<sup>1</sup> 4 CSR 240-2.130(7).

The Commission will adopt most of the procedural schedule proposed by the proponents, including an adjustment of the previously scheduled evidentiary hearing. However, the Commission prefers to issue its Report and Order resolving this rate case approximately thirty days before the operation of law date to allow time to deal with implementing tariffs and requests for rehearing. Since the operation of law date for this case is July 31, the Commission will need to issue its Report and Order during the first week of July. The proposed procedural schedule would have reply briefs filed on June 20, leaving the Commission only two weeks to deliberate, write, approve, and issue a report and order. To remedy that situation, the Commission will adjust the post-hearing schedule proposed by the parties.

The proponents agree the test year should be the twelve calendar months ended March 31, 2010, with a true-up cut-off date of February 28, 2011. The Commission will accept the test year and true-up period agreed to by the proponents.

The proponents also agreed to certain procedural matters and ask the Commission to order compliance with those procedures. The Commission will do so.

**THE COMMISSION ORDERS THAT:**

1. The test year for this case is the twelve months ending March 31, 2010, true-up as of February 28, 2011.
2. The following procedural schedule is established:

<b>Non-AmerenUE parties to file Direct Testimony on revenue requirement</b>	-	<b>February 4, 2011</b>
<b>Non-AmerenUE parties to file Direct Testimony on rate design</b>	-	<b>February 10, 2011</b>
<b>Local Public Hearings (locations and dates to be established by</b>		

- subsequent order) - February 2011**
- Technical/Settlement Conference  
(This is an informal conference among  
the parties and will not be  
“on-the-record”)** - **February 28 to March 4,  
2011**
- All parties to file Rebuttal Testimony - March 25, 2011**
- All parties to file Surrebuttal or  
Cross-Surrebuttal Testimony - April 15, 2011**
- List of Issues, Order of Witnesses,  
Order of Cross-Examination, Order of  
Opening - April 19, 2011**
- Reconciliation - April 20, 2011**
- Statements of Position - April 21, 2011**
- Hearing - April 26 through April 29,  
May 2 through May 6,  
and May 10 through  
May 13, 2011, beginning  
each day at 8:30 a.m.**
- All parties to file True-Up Direct  
Testimony (if necessary) - May 16, 2011**
- All parties to file True-Up Rebuttal  
Testimony (if necessary) - May 20, 2011**
- True-Up Hearing (if necessary) - May 23 and 24, 2011,  
beginning at 8:30 a.m.**
- All parties file Initial Post-Hearing Briefs - June 1, 2011**
- All parties file Reply/True-Up Briefs - June 13, 2011**

3. Ameren Missouri’s Motion to Provide Additional Clarification of Requirements for the Parties’ Cases-in-Chief and Direct Testimony is denied.

4. The parties shall comply with the following procedural requirements:
  - (A) Testimony shall be prefiled as defined in Commission Rule 4 CSR 240-2.130. All parties must comply with this rule, including the requirement that testimony be filed on line-numbered pages.
  - (B) The parties shall agree upon and Staff shall file a list of the issues to be heard, the witnesses to appear on each day of the hearing, the order in which they will be called, and the order of cross-examination for each witness. The list of issues should be detailed enough to inform the Commission of each issue that must be resolved. The Commission will view any issue not contained in this list of issues as uncontested and not requiring resolution by the Commission.
  - (C) Each party shall file a simple and concise statement summarizing its position on each disputed issue.
  - (D) All pleadings, briefs, and amendments shall be filed in accordance with Commission Rule 4 CSR 240-2.080. Briefs shall follow the same list of issues as filed in the case and must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.
  - (E) All parties shall bring an adequate number of copies of exhibits that they intend to offer into evidence at the hearing. If an exhibit has not been prefiled, the party offering it must bring, in addition to the copy for the court reporter, copies for the five Commissioners, the Presiding Judge, and all counsel.

- (F) All parties shall provide copies of testimony (including schedules), exhibits, and pleadings to other counsel by electronic means and in electronic form, essentially contemporaneously with the filing of such testimony, exhibits, or pleadings where the information is available in electronic format (.PDF, .DOC, .WPD, or .XLS). Parties are not required to put information that does not exist in electronic format into electronic format for purposes of exchanging it.
- (G) The parties shall make an effort to not include highly confidential or proprietary information in data request questions. If highly confidential or proprietary information must be included in data request questions, the highly confidential or proprietary information shall be appropriately designated as such pursuant to Commission Rule 4 CSR 240-2.135.
- (H) Each party serving a data request on another party shall provide an electronic copy of the text of the “description” of that data request to counsel for all other parties contemporaneously with service of the data request. Regarding Staff-issued data requests, if the description contains highly confidential or proprietary information, or is voluminous, a hyperlink to the EFIS record of that data request shall be considered a sufficient copy. If a party desires the response to a data request that has been served on another party, the party desiring a copy of the response shall request a copy of the response from the party answering the data request. Data requests, objections to data requests, and notifications respecting the need for additional time to respond to data requests shall be sent by e-mail to counsel

for the other parties. Counsel may designate other personnel to be added to the service list for data requests, but shall assume responsibility for compliance with any restrictions on confidentiality. Data request responses shall be served on counsel for all parties, unless waived by counsel, and on the requesting party's employee or representative who submitted the data request. All data request responses from all parties shall also be served on counsel for Ameren Missouri or company counsel's designee. All data request responses shall be served electronically, if feasible and not voluminous as defined by Commission rule. In the case of Ameren Missouri data request responses, Ameren Missouri shall post its data request responses on its Case Works Extranet site. However, in the case of responses to data requests Staff issues to it, Ameren Missouri shall also submit the response to Staff data requests in EFIS, if feasible, or if submission of responses to Staff data request in EFIS is infeasible, then Ameren Missouri shall submit to Staff its response in electronic format or compact disc or by other means agreed to by Staff counsel. For attachments to data requests relating to the Sioux scrubber project, Ameren Missouri shall make the attachments accessible via its Relativity Extranet site.

- (l) Until direct testimony is filed on February 4, 2011, the response time for all data requests shall be twenty calendar days, with ten calendar days to object or notify the requesting party that more than twenty calendar days will be needed to provide the requested information. After February 4, 2011, until rebuttal testimony is filed on March 25, 2011, the response time for data

requests shall be fifteen calendar days to provide the requested information and eight calendar days to object or notify the requesting party that more than fifteen calendar days will be needed to provide the requested information. After rebuttal testimony is filed on March 25, 2011, the response time for data requests shall be five business days to provide the requested information and three business days to object or notify the requesting party that more than five business days will be needed to provide the requested information. If a data request has been responded to, a party's request for a copy of the response shall be timely responded to, considering that the underlying data request has already been responded to (except that responses shall not be needed for data request responses posted on AmerenUE's Caseworks Extranet site).

- (J) Workpapers that were prepared in the course of developing a witness' direct or rebuttal testimony shall not be filed with the Commission, but, without request, shall be submitted to each party within two business days after the particular testimony is filed. Workpapers prepared in the course of developing a witness' surrebuttal, true-up direct, or true-up rebuttal testimony shall not be filed with the Commission, but shall be submitted to each party simultaneously with the filing of the particular testimony. Workpapers need not be submitted to a party that has indicated it does not want to receive some or all of the workpapers. Workpapers containing highly confidential or proprietary information shall be appropriately marked. Since workpapers for certain parties may be voluminous and generally not all parties are interested



in receiving workpapers or a complete set of workpapers, a party shall be relieved of providing workpapers to those parties indicating that they are not interested in receiving workpapers or a complete set of workpapers. If there are no workpapers associated with testimony, the party's attorney shall so notify the other parties within the time allowed for providing those workpapers.

- (K) Where workpapers or data request responses include models or spreadsheets or similar information originally in a commonly available format where inputs or parameters may be changed to observe changes in inputs, if available in that original format, the party providing the workpaper or response shall provide this type of information in that original format with formulas intact. Ameren Missouri may provide workpapers by posting them on its Caseworks Extranet site, with e-mail notification to counsel for the parties to be provided essentially concurrently with the posting of workpapers on the Caseworks Extranet site. Ameren Missouri shall provide its workpapers to Staff in electronic format by e-mailing or by delivery of a compact disk or other electronic storage media.
  - (L) For purposes of this case, the Commission waives Commission Rules 4 CSR 240-2.045(2) and 2.080(11) so that prefiled testimony and other filings made in EFIS are timely if filed before midnight on the date the filing is due.
  - (M) Documents filed in EFIS are properly served if provided to counsel of record for all other parties via e-mail.
5. The transcripts of the evidentiary hearing shall be expedited.

6. The hearing shall be held at the Commission's office at the Governor Office Building, Room 310, 200 Madison Street, Jefferson City, Missouri. This building meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the hearing.

7. This order shall become effective immediately upon issuance.

**BY THE COMMISSION**



Steven C. Reed  
Secretary

( S E A L )

Clayton, Chm., Davis, Jarrett, Gunn,  
and Kenney, CC., concur.

Woodruff, Chief Regulatory  
Law Judge