

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

In the Matter of the Application of Union Electric)
Company d/b/a Ameren Missouri for the Issuance)
Of an Accounting Authority Order Relating to its) **File No. EU-2012-0027**
Electrical Operations.)

STAFF’S STATEMENT OF POSITIONS

COMES NOW the Staff of the Missouri Public Service Commission (“Staff”), by and through undersigned counsel, and files Staff’s Statement Of Positions:

ISSUES

Issue 1: Do the amounts at issue in this case constitute “fixed costs” or “lost revenues / profits”?

Staff Position: The amounts at issue in this case constitute “lost revenues / profits” which Ameren Missouri failed to realize because of the Commission’s Report And Order in Case No. EO-2010-0255 respecting Ameren Missouri’s off-system sales of power to American Electric Power Operating Companies (“AEP”) and Wabash Valley Power Association, Inc. (“Wabash”). The revenues from Ameren Missouri’s transactions with AEP and Wabash were more than sufficient to replace the revenues not received from Noranda Aluminum, Inc. (“Noranda”) due to the January 2009 ice storm. The Noranda partial outage commenced January 27, 2009 and Noranda did not return to full load until April 9, 2010. Rather than ever authorizing the recovery of lost revenues / profits, the Commission has most often granted utilities authority to defer incremental costs to repair and restore the utilities’ infrastructure from (1) significant damage from extraordinary natural events; (2) extraordinary mechanical failure not involving operator negligence; and (3) costs associated with Commission or other governmental mandates.

Issue 2: Should the Commission issue an Accounting Authority Order (“AAO”) authorizing Ameren Missouri to defer and record to the Uniform System of Accounts, account 182.3, Other Regulatory Assets, the “fixed costs” / “lost revenues / profits” which Ameren Missouri was unable to recover from Noranda due to the effects of the January 2009 ice storm?

Staff Position: No. Ameren Missouri is, in effect, attempting to defer an amount of income, “lost revenues / profits,” approximately equal to the financial effect resulting from the Commission’s decision in its Report And Order in Case No. EO-2010-0255, respecting Ameren Missouri’s off-system sales of power to AEP and Wabash. The revenues from Ameren Missouri’s transactions with AEP and Wabash were more than sufficient to replace the revenues not received from Noranda due to the January 2009 ice storm. The Noranda outage due to the January 2009 ice storm commenced January 27, 2009 and Noranda did not return to full load until April 9, 2010. The Commission in its Report And Order in Case No. EO-2010-0255

directed Ameren Missouri to flow through the fuel adjustment clause (“FAC”) mechanism to customers 95% of the benefits of the off-system sales to AEP and Wabash for the time period of March 1, 2009 to September 30, 2009.

Issue 3: Should Ameren Missouri be permitted to amortize these “fixed costs” / “lost revenues / profits” over a reasonable period commencing with the effective date of the rates approved in Ameren Missouri’s pending rate case (Case No. ER-2012-0166) or over a period commencing close in time to the January 2009 ice storm?

Staff Position: If the Commission permits Ameren Missouri an AAO, the Commission should permit Ameren Missouri to amortize these “fixed costs” / “lost revenues / profits” over a reasonable period commencing close in time to the January 2009 ice storm. At this point, this is an accounting issue, not a ratemaking issue. The issue is when should Ameren Missouri start or when should have Ameren Missouri started showing the amortization on its books, and for what duration of time. If the Commission authorizes an AAO, it is Staff’s traditional position that the utility should start the amortization on its books close in time to the event for which the AAO is granted.

Issue 4: What is the correct quantification of the “fixed costs” / “lost revenues / profits” which Ameren Missouri was unable to recover from Noranda due to the effects on Noranda’s load of the January 2009 ice storm?

Staff Position: Staff witness Jason D. Carter in his rebuttal testimony calculated the quantification of the Noranda lost revenues from January 27, 2009 to April 9, 2010 as a result of the Noranda load loss due to the January 2009 ice storm as \$35,347,378. Staff witness Mark L. Oligschlaeger identified in his surrebuttal testimony the \$35,347,378 amount calculated by Mr. Carter as a pre-tax number. Assuming a composite income tax rate of 38.3886%, Mr. Oligschlaeger calculated the after-tax loss to Ameren Missouri due to the reduction in sales by Noranda as \$21,868,014. Mr. Carter’s calculation differed from Ameren Missouri witness Steven Wills’ calculation because of two adjustments: (1) a leap year adjustment and (2) a line loss charge adjustment. Mr. Will’s in his surrebuttal testimony accepted Mr. Carter’s leap year adjustment.

Issue 5: Would the recovery through a Commission Order in a subsequent rate case of any amounts deferred pursuant to the AAO proposed by Ameren Missouri in this proceeding constitute unlawful retroactive ratemaking?

Staff Position: Yes. An AAO itself is not ratemaking but authorization for accounting treatment that permits a utility to later seek ratemaking treatment. The Staff contends that Ameren Missouri’s AAO proposal is not a proposal for an appropriate AAO, and if authorized by the Commission, would permit Ameren Missouri to later seek in a ratemaking proceeding unlawful retroactive ratemaking treatment. Although it can be argued that Issue 5 is not ripe or justiciable in this proceeding, Staff believes that at a minimum this issue should be raised for the Commission’s information at this stage. Staff is not arguing that ratemaking resulting from a proper AAO constitutes unlawful retroactive ratemaking.

Respectfully submitted,

**Attorneys for the Staff of the
Missouri Public Service Commission**

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document, *Staff's Statement Of Positions*, was served via e-mail on all counsel of record this 20th day of April, 2012.

/s/ Steven Dottheim