BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Proposed Rules 4 CSR 240-3.162	)	
and 4 CSR 240-20.091, Environmental Cost Recovery	)	Case No. EX-2008-0105
Mechanisms	)	

PUBLIC COUNSEL'S FINAL COMMENTS

Public Counsel is concerned that several of the commenters during the hearing on January 17, 2008, failed to adequately communicate that there is a significant difference between deferrals and the ECRM revenue adjustment. Public Counsel recognizes that the following explanation is complex, however efforts to short-cut the accounting and regulatory processes inherent in the use of deferrals often leads to confusion or misunderstanding.

The proposed rules set out the following procedure

- When a utility requests an ECRM in a general rate proceeding, the Commission determines the environmental revenue requirement (equal to environmental compliance costs) that will be included in the base rates coming out of that general rate case.
- Once or twice each year after the general rate proceeding in which an ECRM is authorized, a revised level of environmental cost compliance will be determined. The environmental revenue requirement originally determined in the rate case is subtracted from this revised environmental revenue requirement to determine if an ECRM periodic adjustment is required.
- If so, the next step is to determine how that adjustment compares to the 2 ½ % cap. If the revenue difference is less than 2½% of the overall revenue requirement determined in the rate case, then the entire adjustment is recovered from ratepayers through a surcharge. If the revenue difference is greater than 2½%, then 2½% is recovered from ratepayers through a surcharge and the rest is deferred as a debit to a regulatory asset account and a credit to a revenue account.

This deferral is strictly related to revenues, creates a regulatory asset, and allows the deferred revenues to flow through the income statement thus enhancing earnings during the period the ECRM tariff is in effect. There is absolutely no deferral of any costs (either expense or capital costs) of environmental compliance including any new environmental investments. The environmental investments would be recorded as plant-in-service on the utility's financial records and included in the investment levels on which earnings are calculated. The environmental compliance expenses incurred would likewise be recorded in the appropriate expense account for the year in which they occurred.

Public Counsel's proposed earnings test applies only to the deferral and not to the ECRM periodic adjustment itself. If the ECRM adjustment is less than the 2½% cap there would be no subsequent earnings test for that period. The earnings test would only apply when the utility defers revenues and thus increases earnings in a period. Application of the earnings test would determine whether, absent the deferral of revenue, earnings would have been adequate during the period when revenues were deferred. The analysis would be performed only once during a 4-

year ECRM plan period, in the required rate case at the end. To do otherwise would increase the workload on all parties and ignores that the utility is protected by a carrying charge on any deferrals, which are found to be appropriate for recovery.

Public Counsel would point out that if a deferral occurs in years one, two, or three of an ECRM plan period, the existence of a deferral does not preclude an ECRM adjustment in a subsequent year to reflect a change in environmental revenue requirement. The ECRM calculation would be made in subsequent years just as it was made in the initial year an ECRM adjustment was requested. As previously discussed, environmental compliance expenses and capital investments will be recorded on the financial statements of the utility as they occur whether or not a deferral of revenue is appropriate. It is costs, not revenues, that determine the overall cost of service. This distinction is critical to understanding and explaining how an ECRM adjustment and a deferral should be implemented. Public Counsel believes several commenters failed to recognize this distinction in accounting and ratemaking treatment of deferrals, especially AmerenUE's witness who is an engineer by education and experience.